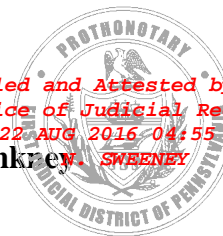


PAUL J. HETZNECKER, ESQUIRE
Attorney I.D. No. 49990
1420 Walnut Street, Suite 911
Philadelphia, PA 19102
(215) 893-9640

Attorney for Plaintiff Nafis Pinkney

Filed and Attested by the
Office of Judicial Records
22 AUG 2016 04:55 pm
SWEENEY



IN THE COURT OF COMMON PLEAS
OF PHILADELPHIA COUNTY

NAFIS PINKNEY	:	COURT OF COMMON PLEAS
	:	OF PHILADELPHIA COUNTY
Plaintiff	:	
vs.	:	FEBRUARY TERM, 2015
	:	
DETECTIVE JAMES PITTS, ET AL	:	NO. 655
	:	
Defendants	:	

PLAINTIFF'S MOTION TO COMPEL DISCOVERY
REGARDING PRIOR MISCONDUCT OF
DEFENDANT DETECTIVE PITTS AND DEFENDANT DETECTIVE JENKINS

Plaintiff, Nafis Pinkney, hereby files this Motion to Compel Discovery Regarding Prior Misconduct of Defendant, Detective James Pitts and Defendant Detective Jenkins, pursuant to Pa. R.C.P. 4019(a)(1)(vii) and (viii), and submits the following in support thereof:

1. On October 13, 2015, Plaintiff Nafis Pinkney served Interrogatories and Request for Production of Documents upon Defendants. Following the request, counsel for the defendant supplied some, but not all of the discovery requested.

2. On May 28, 2016, Plaintiff submitted a Second Request for Production of Documents attached as Plaintiff's Exhibit "A." On the second request the Plaintiff reiterates many of the requests made in the first request as the Defendants failed to comply and failed to

respond to those specific requests. In that request the Plaintiff specifically asked for but did not receive the following documents:

- “4. The complete personnel files maintained by the Philadelphia Police Department for all of the defendant police officers.**

NOT RECEIVED

- 5. The complete Internal Affairs Division's investigation file regarding the incident which is the subject of Nafis Pinkney's complaint.**

NOT RECEIVED

- 6. All documents concerning every civil and criminal complaint made against all of the defendant officers.**

NOT RECEIVED

- 7. All civilian complaints, grievances and charges made against the entire defendant officers involved in the investigation involving the defendant officers.**

NOT RECEIVED

- 8. All documents which concern or relate to any psychological and/or psychiatric referral, evaluation or treatment pertaining to all of the defendant officers.**

NOT RECEIVED

- 9. All training materials and directives including manuals, handouts, outlines, films, etc. used by the Philadelphia Police Department and the City of Philadelphia in training their employees regarding an individual's constitutional rights, including the treatment of suspects and witnesses during interrogation.**

NOT RECEIVED

- 10. All documents, records/reports concerning all reprimands discipline and terminations made by the Philadelphia Police Department and/or City of Philadelphia against the Defendants, as well as any policy directives involving interrogations of suspects.**

NOT RECEIVED

- (a) All cases and documents related to cases in which the defendants have been accused of misconduct. This includes all cases in which the defendants have been accused of forcing confessions;**

NOT RECEIVED

- (b) All cases and documents related to cases in which the defendants have been accused of holding witnesses, as well as suspects, in custody for lengthy periods.**

NOT RECEIVED

- 11. Please supply all W-2's, 1099's and Federal and State tax returns of the Defendants.**

NOT RECEIVED

- 12. Please provide the names, addresses, telephone numbers and a brief statement of regarding the testimony of all lay witnesses that you intend to produce at trial.**

NOT RECEIVED

- 14. All Police Department policies and directives involving the treatment of individuals encountered and/or placed in custody by the police who are witnesses as well as suspects.**

NOT RECEIVED

15. RECEIVED.

16. *Please provide all of the investigative files regarding related homicide investigations. Any investigation in which the defendants, as well as other homicide investigators considered relevant, and/or related to this investigations. (A more specific request with respect to these documents is set forth in Paragraph 1)*
NOT RECEIVED

17. RECEIVED

4. In addition, we are requesting the previously requested items , specifically referenced based on the limited discovery that has been provided to date. While the City has provided the Concise Officer Histories for both Ohmarr Jenkins and James Pitts, the disclosures are incomplete. Specifically, we are requesting the Internal Affairs Investigation Report for each of the following investigations: **NOT RECEIVED IN DISCOVERY**

Officer Ohmarr Jenkins

IA No.	Date	Complainant
98-1171	7/16/1998	Denise McCray-Scott
01-9045	7/21/2001	Kareem Coleman
02-9006	1/30/2002	Harold Daniel Tibers
02-0338	7/22/2002	Harold Cornelli
03-0246	5/28/2003	Mike Bass and Jermaine Sutton
05-0211	5/3/2005	Donna Madison
05-6134	9/7/2005	Anthony Byrd
08-6034	3/7/2008	Confidential
13-0014	1/10/2013	Raffinee Taylor
15-0183	4/20/2015	Antonio Brown

NOT RECEIVED IN DISCOVERY

Officer James Pitts

IA No.	Date	Complainant
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99-1169	8/5/1999	James Godfrey
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13-0014	1/10/2013	Raffinee Taylor
13-0592	10/7/2013	Zshani Al-Rasul
15-0136	3/24/2015	Keith Tolbert
15-0311	6/16/2015	Diane Marble

NOT RECEIVED IN DISCOVERY

3. On June 1, 2016, Assistant City Solicitor, Brock Atkins, Esquire entered his appearance on behalf of the Defendants. Sometime in early June, counsel for the Plaintiff had a phone conversation in which counsel for the Defendants, Brock Atkins, indicated that he would not disclose the items that were the subject of the Plaintiff's First and Second Request for Production of Documents. Plaintiff asserts that the requested information is disclosable and asks that this Honorable Court order the Defendants to produce the documents requested based upon the following:

4. In October, 2013, Nafis Pinkney was found not guilty of two counts of first degree murder. Mr. Pinkney was charged based exclusively on the false confession extracted from him by Detectives Pitts and Jenkins. This false confession was the product of psychological coercion. After twenty four hours of continuous threats, intimidation, and sleep deprivation, Mr. Pinkney agreed to implicate himself in a crime he did not commit. During the almost four years of pre-trial incarceration, Mr. Pinkney anguished over the real prospect of either being put to death,

or spending the rest of his life in prison for a crime he did not commit. Following his acquittal, Mr. Pinkney continues to struggle with the aftermath. Mr. Pinkney lost his job, personal security and psychological well being.

5. As shocking as this case is, this is not the first time Detective Pitts and Detective Jenkins have been accused of fabricating evidence. The evidence uncovered to date reveals that both Pitts and Jenkins have engaged in a frightening pattern and practice of fabricating evidence, including coercing false confessions. Based upon the information developed to date, Mr. Pinkney's case is the fourth homicide case in which Pitts and Jenkins have manipulated witnesses and suspects into providing false statements. A review of these prior "bad acts" evidence involving Defendants Pitts and Jenkins demonstrates that the City of Philadelphia has information that has been withheld that directly relates to the claims in this case. In addition to the specific claims set forth in the Second Request for Production of Documents, the City of Philadelphia is respectfully requesting the court grant this Motion to Compel and order the City to disclose any all information related to the cases set forth below:¹

6. On October 7, 2009, Amin Speaks was charged with first degree murder. The same two homicide detectives, Ohmar Jenkins and James Pitts were assigned to investigate the murder. Prior to trial, counsel for the defendant provided two surveillance tapes establishing that Mr. Speaks was at another location when the murder occurred. Despite unequivocal evidence of innocence, it was discovered that Pitts and Jenkins had intimidated a witness into providing a

¹ Two of these alleged "Bad acts" are set forth in Paragraphs 6 and 7 reflected in the Daily News story dated November 6, 2013 about the Plaintiff and these two other cases. Attached as Exhibit "B"

fabricated statement that Mr. Speaks was responsible for the murder. More specifically, Detective Pitts coerced a false statement from Shaquille Rainey, the learning disabled cousin of the defendant, Speaks. During the interrogation which lasted five hours, Rainey was physically assaulted and threatened by Pitts. A jury acquitted Amin Speaks of all the charges.

7. In January, 2011, murder charges were dropped against Unique Drayton, a young woman charged with fatally stabbing her roommate in August of 2009. The prosecution disintegrated after the judge ruled that Detective Pitts coerced a false confession from the defendant. In that case, Ms. Drayton was interrogated for almost 48 hours, repeatedly threatened and twice physically assaulted while being handcuffed to a chair in an interrogation room. Eventually, Ms. Drayton gave into the threats and provided the fabricated confession to the fatal stabbing of her roommate. In granting the motion to suppress Judge Sarmina stated “This Court found many things that Detective Pitts had to say incredible....” Judge Sarmina summed up her decision by stating that “This[the defendant’s] statement that she made was not voluntarily made, but was the product of psychological coercion.”

8. On December 22, 2009, Dwayne Thorpe was convicted of first degree murder and eventually sentenced to life in prison. One of the witnesses against Mr. Thorpe was a man named Allan Chamberlain. Pursuant to a Post Conviction Relief Act filing on May 8, 2015, upon information and belief, Chamberlain was brought into police headquarters to provide a statement. Detective Pitts interrogated Chamberlain and threatened to take away his son and charge him with murder. Detective Pitts physically assaulted him in order to force him to falsely implicate Defendant Dwayne Thorpe. Eventually Detective Pitts fabricated a statement from Chamberlain

and Chamberlain signed the statement. In that statement Chamberlain implicated the defendant Thorpe in statements that he made indicating that he was angry with someone on the block and that he implied that he was going to use guns to protect his drug business. Upon information and belief during trial, Allan Chamberlain completely denied making the statement and explained that Detective Pitts had physically abused him and threatened that he would prosecute Chamberlain for the murder and take away his son.

9. In Commonwealth v. Kyle Reed, CP-51-CR-0015615-2010, witness Rafinee Taylor was called by the Commonwealth to establish the motive for the defendant Kyle Reed to have engaged in a robbery homicide. Detective Pitts presented her with several statements for her to sign. At trial, Ms. Taylor insisted that Detective Pitts fabricated those statements, held her in custody for four days, most of the time spent secured in handcuffs and threatened to charge her with homicide and that she would never see her children again. Additionally, he refused her any food and kept her incommunicado from her family and the lawyer. She testified that she eventually was overcome by his coercive techniques and signed the statements that he had typed as she thought it was the only way that she could ever be released. (Exhibit "C", N.T., 11/26/2012, pp. 244-256)

10. In the case of Commonwealth v. John McLaughlin, CP-51-CR0010456-2008, the Commonwealth called Raymond Mooney as a witness. Mr. Mooney testified that Detective Pitts threatened to arrest and lock up his seventy-five year old if Mooney did not provide the statement that he wanted. Mr. Mooney testified that he was coerced into signing the statement. *See*, N.T. 2/22/12 at 55-56, attached hereto as Exhibit "D"

11. In 2013 Internal Affairs received a complaint of Zshani Al-Rasul, IAD# 13-592 asserting that Detective Pitts held her incommunicado for two days, denied her access to her eleven year old son who was home alone and denied her food and water, all in an effort to coerce a statement. Internal Affairs sustained the complaints, and held that Detective Pitts abused his authority, engaged in an improper detention, and engaged in improper procedure. Detective Pitts was eventually sued and the case was settled for \$110,000.00. Attached as Exhibit "E".

12. In 2012, Leroy Cook, an eighty four old man,, had his door kicked in by Detective Pitts, was screamed and cursed at by Detective Pitts, and was repeatedly threatened by Detective Pitts. See IAD# 12-041. Detective Pitts specifically threatened to arrest everyone in Mr. Cook's home for conspiracy. Detective Pitts placed Mr. Cook in custody and held and questioned this eighty four year old man for over six hours without any legal basis to do so. Internal Affairs held that allegations against Detective Pitts were sustained and that Detective Pitts abused his authority and damaged private property. Attached as Exhibit "F".

13. In 2015, Keith Tolbert asserted that Detective Pitts assaulted him by striking him in the face and the groin in order to coerce Tolbert into giving a statement. Internal Affairs concluded that he could not be either proved or disproved as it was Mr. Tolbert's word against Mr. Pitts. Attached as Exhibit "G".

14. In 2013 in the case of Commonwealth v. Erica Hovington, Rosalind Woods was taken into custody by Detective Pitts from her home in her night clothes. She was locked in an interrogation room in the Homicide Unit for a lengthy period of time even though she had told Detective Pitts that she had not seen the shooting which was the subject of his interrogation. She

was threatened with arrest and prosecution if she did not tell Detective Pitts what he wanted to hear. This information was provided by Attorney Trevan Borum. Eventually, Hovington was acquitted.

15. In 2008 Tonya Thornton, a correctional officer, sued Pitts after she was held for ten (10) hours in an interrogation room and falsely accused of participating in a homicide. A lawsuit was filed.

16. On November 10, 2008, Terrell Johns sued Detective Pitts Badge No. 9040 and two other police officers after he was assaulted by them. He was charged with aggravated assault and resisting arrest. Eventually, those charges were dropped after he spent eight months in jail. Mr. Johns filed a malicious prosecution claim, which upon information and belief was settled.

17. Upon information and belief, on April 23, 2012, Recco Ford filed a lawsuit Defendant, Ohmar Jenkins alleging that Jenkins coerced two juveniles into identifying Mr. Ford as the shooter in a homicide case. Specifically in the Complaint, Detective Jenkins held the juveniles for a period of time threatening the juveniles with prosecution for conspiracy to commit murder if they did not identify Mr. Ford as the person involved in the shooting. Both juvenile witnesses signed fabricated statements identifying Mr. Ford as the shooter. According to the Complaint, both juvenile witnesses testified that Mr. Ford was not the person involved in the shooting. According to the Complaint, each of the witnesses testified that they were coerced into providing false statements indicating Recco Ford as the shooter. Eventually, Recco Ford was acquitted of all charges.

18. As asserted in a pending Motion to Compel, upon information and belief, James

Barrow has provided a confession to the double homicide in which the plaintiff Nafis Pinkney was charged and eventually acquitted by a jury. Recently, Mr. Barrow confessed to the crime of the Shield Street murder and upon information and belief has also confessed to the crime involving the double murder in which the plaintiff was originally charged. The confession in the possession of the Commonwealth is the subject of that Motion to Compel.

19,. Defendants, through their counsel have taken the position that this evidence is not relevant to the malicious prosecution claim asserted by the plaintiff in this case, and therefore not discoverable. Defense counsel's position is contrary to the law in Pennsylvania this evidence is not discoverable.²

LEGAL ARGUMENT

Rule 4003.1, Scope of Discovery Generally, Opinions and Contentions (a) subject to the provisions of Rule 4003.2 (related to a party's insurance) and 4003.5 (related to the identification of experts and disclosure of actual reports) inclusive and for Rule 411 (related to limitation on scope of discovery and deposition), a party may obtain discovery regarding any matter not privileged which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or the claim or defense of any other party, including the existence, description, nature, content, custody, condition and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. (b) It is not ground for objection that the information

² Under Pa.R.Evid. 404(b) evidence of prior bad acts may be admissible to show common plan and scheme. Furthermore, it may tend to show a motive for the claim against the defendants. Likewise, under Pa.R.Evid. 406, the evidence may be admissible as evidence of custom or habit by the defendants in conducting interrogations. Under either 404(b) or 406, the requested evidence may be admissible to support the plaintiff's claim at trial. However, whether evidence is discoverable is the question before the Court in this motion.

being sought will be inadmissible at trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence. (c) Except as otherwise provided by these rules, it is not ground for objection that the information sought involves an opinion or contention that relates to a fact or the application of law to fact. Pa.R.Civ.P. 4003.1

The Supreme Court of Pennsylvania has interpreted Rule 4003.1(a) to permit a party to obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involving any pending action. Barrick v. Holy Spirit Hospital of Sisters of Christian Charity, 91 A.3d 680 (Pa. 2014) Furthermore, the Supreme Court has generally ruled that a party generally is entitled to discovery regarding any matter, not privileged, that is relevant to the litigation subject matter and will substantially aid in advancing claims or defenses. Pa.R.Civ.P. 4003.1 Cooper v. Schoffstall, 905 A.2d 482 (Pa. 2006)

WHEREFORE, Plaintiff respectfully requests that this Honorable Court grant this Motion to Compel Discovery and order Defendants Pitts, Jenkins and their counsel, to provide all of the documents the Plaintiff has requested within five (5) days hereof or risk sanctions upon further application to the Court.

Respectfully submitted,

/s/ Paul J. Hetznecker, Esquire
Paul J. Hetznecker, Esquire
Attorney for Plaintiff

Date: August 22, 2016

VERIFICATION

Paul J. Hetznecker, Esquire, states that he is the attorney for Plaintiff, Nafis Pinkney and is authorized as attorney to make this verification on her behalf. The averments of the foregoing Motion to Compel Discovery are true and correct to the best of his knowledge, information and belief. This verification is made subject to the penalties of 18 Pa. C.S. Section 4904 relating to unsworn falsification to authorities.

Date: August 22, 2016

/s/ Paul J. Hetznecker, Esquire
Paul J. Hetznecker, Esquire

CERTIFICATE OF SERVICE

I hereby certify that on **August 22, 2016**, the document described below
has been served upon the following counsel and in the manner indicated:

DOCUMENT:

Plaintiff's Motion to Compel Discovery

SERVICE BY ELECTRONIC COURT FILING (ECF) AND FIRST CLASS MAIL

Brock Atkins, Esquire
City of Philadelphia – Law Department
One Parkway
1515 Arch Street
Philadelphia, PA 19102-1595

/s/ Paul J. Hetznecker, Esquire
Paul J. Hetznecker, Esquire
Attorney for Plaintiff

IN THE COURT OF COMMON PLEAS
OF PHILADELPHIA COUNTY

NAFIS PINKNEY	:	COURT OF COMMON PLEAS
	:	OF PHILADELPHIA COUNTY
Plaintiff	:	
vs.	:	FEBRUARY TERM, 2015
	:	
DETECTIVE JAMES PITTS, ET AL	:	NO. 655
	:	
Defendants	:	

ORDER

AND NOW, this _____ day of _____, 2016, upon consideration of Plaintiff's Motion to Compel Discovery and any response thereto, it is hereby **ORDERED** and **DECREED** THAT SAID Motion is **GRANTED**.

Defendants, through counsel, Detective James Pitts and Detective Jenkins hereby **ORDERED** to serve all of the requested documents set forth in the Second Request for Production of Documents within ten (10) days hereof or risk sanctions upon further application to this Court.

BY THE COURT:

J.

PAUL J. HETZNECKER, ESQUIRE
ATTORNEY I.D. NO. 49990
1420 WALNUT STREET, SUITE 911
PHILADELPHIA, PA 19102
(215) 893-9640

Attorney for Nafis Pinkney

**IN THE COURT OF COMMON PLEAS
OF PHILADELPHIA COUNTY**

NAFIS PINKNEY	:	COURT OF COMMON PLEAS
Plaintiff	:	OF PHILADELPHIA COUNTY
vs.	:	FEBRUARY TERM, 2015
	:	
DETECTIVE JAMES PITTS, ET AL	:	NO. 655
Defendants	:	

**ATTORNEY CERTIFICATION OF GOOD FAITH PURSUANT TO
PHILADELPHIA RULE OF CIVIL PROCEDURE 208.2(e)**

The undersigned counsel for movant hereby certifies and attests that:

[X] A. Counsel for Plaintiff, Paul J. Hetznecker, Esquire has had the contacts described below with opposing counsel regarding discovery matter contained in the foregoing discovery motion in an effort to resolve the specific discovery dispute at issue and, further, that despite all counsel's good faith attempts to resolve the dispute(s), counsel have been unable to do so.

[X] B. Counsel for the Plaintiff, Paul J. Hetznecker, Esquire has made good faith but unsuccessful ,efforts described below to contact opposing counsel in an effort to resolve the discovery dispute.

CERTIFIED TO THE COURT BY:

Date: August 22, 2016

/s/ Paul J. Hetznecker, Esquire
Paul J. Hetznecker, Esquire
Attorney for Plaintiff

Filed and Attested by the
Office of Judicial Records
22 AUG 2016 04:55 pm
N. SWEENEY

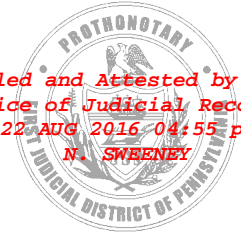


EXHIBIT "A"

PAUL J. HETZNECKER, ESQUIRE
Attorney I.D. No. 49990
1420 Walnut Street, Suite 911
Philadelphia, PA 19102
(215) 893-9640

Attorney for Plaintiff Nafis Pinkney

IN THE COURT OF COMMON PLEAS
OF PHILADELPHIA COUNTY

NAFIS PINKNEY	:	COURT OF COMMON PLEAS
	:	OF PHILADELPHIA COUNTY
Plaintiff	:	
v.	:	FEBRUARY TERM, 2015
	:	
DETECTIVE JAMES PITTS, ET AL	:	NO. 655
	:	
Defendants	:	JURY TRIAL DEMANDED

**PLAINTIFF'S SECOND REQUEST FOR PRODUCTION OF DOCUMENTS
ADDRESSED TO THE CITY OF PHILADELPHIA**

Plaintiff, The Estate of Nafis Pinkney, by and through his attorney, **PAUL J. HETZNECKER, ESQUIRE**, hereby requests that the Defendants, City of Philadelphia, to produce the following documents for Plaintiff's inspection and copying within thirty (30) days in accordance with the Federal Rules of Civil Procedure, Rule No. 34. Such request is continuing up to and at the time of trial.

INSTRUCTIONS AND DEFINITIONS

A. For the purposes of this Request, the word "document" means the original, all drafts thereof and all copies of written, printed, recorded, charted, taped graphic or magnetic matter (including but not limited to videotapes, audiotapes, computer tapes and discs), however produced, reproduced or prepared.

B. This request applies to all documents in your possession, custody or control or in the possession, custody or control of persons acting or purporting to act on your behalf including, but not limited to, your present and former agents, investigators, indemnitor, insurers, consultants and sureties.

C. Please identify the person that provides each document by name and badge number.

REQUEST FOR PRODUCTION

1. In the Plaintiff's first Request for Production of Documents submitted on October 13, 2015, I specifically requested in Paragraph 16:

Please provide all of the investigative files regarding related homicide investigations. Any investigation in which the defendants, as well as other homicide investigators considered relevant, and/or related to this investigation.

The Plaintiff has not received any documents to date. In conjunction with the original request, the Plaintiff makes the following specific requests for discovery. Any and all information, including the complete homicide file for James Barrow, Date of Birth: 3/25/1986, PP# 935945. This includes his confession to a similar homicide, as well as his confession to the homicide in which Mr. Pinkney was charged, tried and acquitted.

3. In the Plaintiff's First Request for Production of Documents on October 13, 2015, the Plaintiff requested the following items in the numbered paragraphs set forth below:

- "4. **The complete personnel files maintained by the Philadelphia Police Department for all of the defendant police officers.**
5. **The complete Internal Affairs Division's investigation file regarding the incident which is the subject of Nafis Pinkney's complaint.**
6. **All documents concerning every civil and criminal complaint made against all of the defendant officers.**
7. **All civilian complaints, grievances and charges made against the entire defendant officers involved in the investigation involving the defendant officers.**

8. All documents which concern or relate to any psychological and/or psychiatric referral, evaluation or treatment pertaining to all of the defendant officers.
9. All training materials and directives including manuals, handouts, outlines, films, etc. used by the Philadelphia Police Department and the City of Philadelphia in training their employees regarding an individual's constitutional rights, including the treatment of suspects and witnesses during interrogation.
10. All documents, records/reports concerning all reprimands discipline and terminations made by the Philadelphia Police Department and/or City of Philadelphia against the Defendants, as well as any policy directives involving interrogations of suspects.
 - (a) All cases and documents related to cases in which the defendants have been accused of misconduct. This includes all cases in which the defendants have been accused of forcing confessions;
 - (b) All cases and documents related to cases in which the defendants have been accused of holding witnesses, as well as suspects, in custody for lengthy periods.
11. Please supply all W-2's, 1099's and Federal and State tax returns of the Defendants.
12. Please provide the names, addresses, telephone numbers and a brief statement of regarding the testimony of all lay witnesses that you intend to produce at trial.
14. All Police Department policies and directives involving the treatment of individuals encountered and/or placed in custody by the police who are witnesses as well as suspects.

15. Statements of any kind and/or interviews of all witnesses, Internal Affairs complaints against the defendants:
 - a. All chronologies prepared by anyone involved in those cases.
 - b. All incident reports concerning those cases.
16. *Please provide all of the investigative files regarding related homicide investigations. Any investigation in which the defendants, as well as other homicide investigators considered relevant, and/or related to this investigations. (A more specific request with respect to these documents is set forth in Paragraph 1)*
17. All investigation files, records, reports, interview statements, summaries, finding, and rulings made which is the subject of the complaint.

4. In addition, we are requesting the previously requested items, specifically referenced based on the limited discovery that has been provided to date. While the City has provided the Concise Officer Histories for both Ohmarr Jenkins and James Pitts, the disclosures are incomplete. Specifically, we are requesting the Internal Affairs Investigation Report for each of the following investigations:

Officer Ohmarr Jenkins

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02-0338	7/22/2002	Harold Cornelli
03-0246	5/28/2003	Mike Bass and Jermaine Sutton
05-0211	5/3/2005	Donna Madison
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08-6034	3/7/2008	Confidential
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15-0183	4/20/2015	Antonio Brown

Officer James Pitts

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13-0592	10/7/2013	Zshani Al-Rasul
15-0136	3/24/2015	Keith Tolbert
15-0311	6/16/2015	Diane Marble

Please provide these documents within thirty (30) days.

Respectfully submitted,


PAUL J. HETZNECKER, ESQUIRE
Attorney for Plaintiff, Nafis Pinkney

DATE: May 26, 2016

CERTIFICATE OF SERVICE

I, Paul J. Hetznecker, Esquire, hereby certify that a copy of Plaintiff's First Request for Production of Documents was sent via First Class Mail to the following individuals:

Armando Brigandi, Esquire
City of Philadelphia - Law Department
1515 Arch Street, 14th Floor
Philadelphia, PA 19102



PAUL J. HETZNECKER, ESQUIRE
Attorney for the Plaintiff, Nafis Pinkney

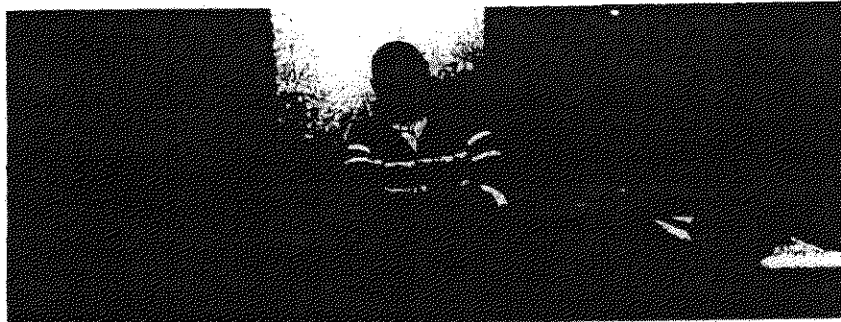
DATE: May 26, 2016

EXHIBIT “B”

Home | News | Sports | Entertainment | Business | Food | Lifestyle | Health | Marketplace

Collections • Bad Cop

Same 2 cops built 3 murder cases that fell apart



STEVEN M. FALK / STAFF PHOTOGRAPHER Nafis Pinkney (right), with dad Thomas, spent four years in jail awaiting trial, only to be set free by a jury last month.

BY MENSAN M. DEAN, Daily News Staff Writer
deanm@phillynews.com, 215-568-8278

POSTED: November 06, 2013

IN THE ANNALS of Philadelphia crime, the name Nafis Pinkney rings no bells amid the high-profile murderers, mobsters, corrupt cops and politicians.

But in 2009, with a high-school diploma, a steady job as a baggage handler at Philadelphia International Airport and no criminal convictions, Pinkney, then 20, found himself beneath the bright light of a criminal interrogation.

In a 24-hour span, he went from neighborhood witness to prime suspect, accused of murdering his friend since day-care days, Jonathan Pitts, 21, and Pitts' girlfriend, Nakeisha Finks, 20.

Steadfastly maintaining his innocence, Pinkney spent the next four years in city jails awaiting trial, and for 1 1/2 of those years, it was listed as a death-penalty case.

Finally, last month, in just three hours of deliberation, a Philadelphia jury determined that he was the wrong man, found him not guilty of all charges and set him free.

By their Oct. 11 decision, jurors effectively concluded that Nafis Pinkney had something in common with Amin Speakes and Unique Drayton, two other murder defendants who went free: They all had been charged with murder based on the work of the same two Philadelphia homicide detectives, Ohmarr Jenkins and James Pitts (no relation to Jonathan).

'Good cop, bad cop'

Just after 11 a.m. Aug. 29, 2009, police found Jonathan Pitts and Nakeisha Finks tied up and blindfolded with duct tape. Both had been shot in the back of their heads in Pitts' ransacked home on Delancey Street in Cobbs Creek.

Pitts, described by police as a low-level drug dealer, also had been beaten, according to the Medical Examiner's Office.

Pinkney, now 24, says the two homicide detectives on the case, Jenkins and Pitts, played "good cop, bad cop" before smacking and cajoling a false confession out of him.

"One officer would come across as calm and cool, and the other one would be overaggressive," Pinkney told the *Daily News* after his acquittal. "The one that would lay hands on you was Detective Pitts, and Jenkins would be trying to calm him down. But at the end of the day, they both began to lay hands on me, hit me, punch me, mug me

around in there to get me to go along with what they were telling me."

Pinkney said he signed the confession "because I thought that was my only way out the door. They said, 'If you sign this, you go.' I'm not the only one that's been through what I've been through, false confessions and things of that nature. It was a mistake on my behalf, but it's not my fault."

At trial, detectives Jenkins and Pitts and the District Attorney's Office went full-bore to get the jury to convict Pinkney of two counts of first-degree murder, which would carry a sentence of life in prison without parole.

In all, Pinkney's family spent almost \$50,000 on three defense lawyers, according to his father, Thomas Pinkney, 52.

Now Pinkney, his family and the lawyer who represented him in court, Gregory J. Pagano, are asking: How could such a miscarriage of justice happen?

Their questions start with the alleged actions of detectives Pitts and Jenkins, who they claim gave Pinkney information about the murders and coaxed him to make up plausible lies implicating himself and two other men during a 24-hour interrogation.

"The detectives must have fed him just enough facts to put that statement together. I don't think there's any other conclusion," Pagano said.

"Sometimes this type of detective work might work. Sometimes you can coerce a statement out of a guilty person, and all the pieces - the forensics, the DNA and fingerprints - might fit into place. But sometimes when you cast a wide net like that, you scoop up a fish that's innocent. Then it doesn't work. Then it all falls to pieces."

Not the first time

Pinkney is the third defendant in three years to be cleared after being charged with murder based on the work of the same two detectives:

* Last year, after spending more than two years in jail awaiting trial for a murder in North Philadelphia, Amin Speakes, 25, was acquitted by a jury that saw surveillance video proving he was elsewhere at the time of the crime.

As the *Daily News* reported in a cover story Feb. 8, 2012, two time-stamped videos placed Speakes miles away from the Oct. 7, 2009, shooting of Timothy "Banger" Ross for which he was charged with first-degree murder. The D.A.'s office had viewed the video and decided to put Speakes on trial anyway.

"Had the detectives and the police continued to do some investigating in the neighborhood for the rest of the day and night, they may have caught the killers," Vernell Rainey, Speakes' grandmother, said after the jury found him not guilty. "But they dropped the ball in my living-room court and left it there."

* In January 2011, murder and weapons charges were formally dropped against Unique Drayton, 27, who was charged with fatally stabbing her roommate on Jefferson Street near 52nd in Overbrook in August 2009. The case fell apart when Common Pleas Judge M. Teresa Samina, ruling that Drayton had been held without probable cause, suppressed the confession statement she gave Detective Pitts after being in custody for 41 hours.

"The statement that she made was not voluntarily made, but was the product of psychological coercion," Samina said in her November 2010 ruling, according to a court transcript. The judge said she found many things that Pitts said during the suppression hearing "incredible," while she found most of what Drayton said to be "credible."

"I think Detective Pitts is far too aggressive in his interrogation techniques," said public defender Andrea Konow, who represented Drayton with fellow public defender Marit Anderson. "He's a big guy. I think he gets in there and bullies people, and he causes people to say things that may not be true."

As in Pinkney's case, no one else has been arrested for the murders for which Speakes and Drayton once were charged.

"The scariest thing here is that more than one cold-blooded killer is walking the streets of Philadelphia," said Pagano, Pinkney's defense lawyer.

Now he's homeless

Pinkney, who has moved from the Philadelphia area, said the ordeal has left him homeless, unemployed and disgusted by the conduct of the detectives who accused him of murdering his friends.

"It's sad because we hold these officers and detectives to a higher standard because of our safety," Pinkney said.

"People lie to and don't respect the Philadelphia Police Department - or cops, period - because things like this happen. You have people incarcerated and they told the truth. But you didn't want to believe them just because you have a feeling, a hunch. Their lives are taken from them."

Detective Pitts, 43, joined the police force in 1989; Jenkins, 42, came on board in 1995. Homicide Capt. James Clark did not respond to *Daily News* requests for comment on the allegations made by Pagano and Pinkney against the two detectives.

But Assistant District Attorney Mark Levenberg, who prosecuted Pinkney, said Pinkney "forgot to mention," during more than an hour on the witness stand while being questioned by Pagano, that the detectives assaulted him. He said Pinkney had no injuries where he said he'd been hit.

Levenberg said Pinkney's lawyers are to blame for his four-year wait to be tried because they kept asking for postponements.

"I disagree with the verdict. I'm not going to engage in a guessing game about why the jury did as it did. The evidence was pretty clear," said Levenberg, who found no fault with the behavior of Pitts and Jenkins.

"I think being a homicide detective is a difficult job. I think that the evidence all speaks for itself. I don't believe that that statement was coerced. I think the defendant lied about some things on the stand."

Who was the killer?

If Nafis Pinkney didn't kill Jonathan Pitts and Nakeisha Finks, then who did?

In the statement taken by detectives Pitts and Jenkins the day after the slayings, Pinkney identified the gunmen as Lenny Walker and Milton "June" Martin, two neighborhood men who he said agreed to rob Jonathan Pitts' home of drug money.

"I told Lenny how to get into Jon's house and where I thought the money was at inside the house," Pinkney is quoted as saying in the confession statement.

But police thoroughly investigated Walker and Martin - who is Pinkney's cousin - and found no evidence linking them to the murders. They were questioned and released.

Pagano believes that they were too street-savvy to be baited into giving false confessions.

The only physical evidence police had to link Pinkney to the crime scene was a brownish bloodstain on a downstairs wall, nowhere near the second-floor-bedroom murder scene.

Pinkney claims that the stain was on the wall long before the murders, the result of roughhousing he and other friends often did at Jonathan Pitts' home.

Pagano said the detectives learned of Walker and Martin after questioning Pinkney about the friends with whom he and Jonathan Pitts hung out.

"So they took that and ran with it," Pinkney suggested.

He believes that police also ran with rumors, from some of the victims' relatives who gathered at the crime scene, that Pinkney had something to do with the slayings given his close relationship with Jonathan Pitts.

With the rumors swirling and his desire to help catch the killer or killers, Pinkney said, he readily agreed to be interviewed by police.

"I could have easily ended up being murdered, duct-taped and bound, so I put my best foot forward as a friend to help the best way possibly that I could," he said. "And I was taken advantage of. It's not right."

The four-page police statement - a copy of which was obtained by the *Daily News* - contained things that Pinkney told the detectives that he says they wanted to hear and write down.

The statement began at 1:45 p.m. Aug. 30, 2009 - about 24 hours after he had been taken into custody.

But in the courtroom, the statement that Jenkins and Pitts had used to arrest Pinkney was likely the key to his freedom, Pagano believes.

In addition to Pinkney blaming the robbery-turned-murders on two men who were cleared of the slayings, he also said in that statement that the two men got into the house by climbing a ladder and entering through a narrow rear window.

Pagano told the jury that there was no evidence that the killers entered the house that way, and that most home-invasion perpetrators go through the front door.

"How can you believe his statement? That was my primary argument to the jury. If Lenny and June were not involved, if the perpetrators did not go in through the back window, then you cannot believe his statement. And if you can't believe his statement, then it must have been coerced."

Pagano shared with the jury several theories on who could have killed the couple.

Jonathan Pitts managed the Casbah, a bar at 56th and Spruce streets that his mother owned and that was within a block of his home. Someone may have followed him home after he closed the bar just after 2 a.m., Pagano said.

Or the killer could have been the same person who fatally shot Kamara Joseph on Shields Street near Elmwood Avenue, five days before the double murder and a little more than 1 1/2 miles away.

Like Jonathan Pitts, police described Joseph, 30, as a low-level drug dealer, and he was bound with duct tape and shot in the back of the head, as were Pitts and Finks, Pagano noted.

Probing Joseph's slaying, police requested Pinkney's cellphone records in an attempt to link him to the slaying, according to a Police Department letter obtained by the *Daily News*. No link was found, and Joseph's slaying remains unsolved.

Although he is free, Pinkney said, his life will never be the same. On Pagano's advice, he moved from the West Philadelphia neighborhood where he was born and raised, and where he and Jonathan Pitts attended day care together.

He said he wants Pitts' and Finks' families to know that he had nothing to do with their murders.

"I just want to go on with my life and let people know that things must change, because there are a lot of people stereotyped and they're in prison because of where they live or where they're from or because of their complexion," said Pinkney, who hopes to earn a business degree to help run his father's flavored-ice business.

Of detectives Pitts and Jenkins, he said: "I really do think they need to . . . have a heart. They're very careless and unconcerned about people's lives. Treat people like you want to be treated."

- Staff writer David Gambacorta contributed to this report

EXHIBIT “C”

First Judicial District of Pennsylvania

51CR00154932010, 51CR00156162010

Vincent Wallace

*Trial (Jury) Volume 1
November 26, 2012*



*First Judicial District of Pennsylvania
100 South Broad Street, Second Floor
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(215) 683-8000 FAX:(215) 683-8005*

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[1] IN THE COURT OF COMMON PLEAS
[2] FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
[3] CRIMINAL TRIAL DIVISION
[4]

[5] ---
[6] COMMONWEALTH : CP-51-CR-0015493-2010

[7] V. :

[8] VINCENT WALLACE :

[9] ---
[10] COMMONWEALTH : CP-51-CR-0015615-2010

[11] V. :

[12] KYLE REED :
[13]

[14] ---

[15] Courtroom 1108, Criminal Justice Center

[16] Philadelphia, Pennsylvania

[17] ---

[18] November 26, 2012

[19] Volume I
[20] ---

[21] B E F O R E: THE HONORABLE CAROLYN ENGEL TEMIN, J.
[22] And a Jury

[23]

[24]

[25]

Sharon Ricci, RPR, CRR

[1] APPEARANCES:

[2]

JUDE CONROY, ESQUIRE
Counsel for the Commonwealth

[4]

GEOFFREY VINCENT SEAY, ESQUIRE
Counsel for Mr. Wallace

[5]

[6]

GARY SANFORD SERVER, ESQUIRE
Counsel for Mr. Reed

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DEFENDANTS

WITNESS DIRECT CROSS REDIRECT RECROSS

(None presented)

[23]

[24]

[25]

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[1] (Whereupon, a brief discussion took place
[2] in the Judge's robing room as follows:
[3] THE COURT: Good morning. Who asked for
[4] the conference?

[5] MR. SERVER: I think Mr. Seay and I both
[6] have a couple issues.

[7] THE COURT: All right.

[8] MR. SERVER: Good morning, Your Honor.
[9] Your Honor, I believe I have a character witness for
[10] my client. His sister, she hadn't appeared --

[11] THE COURT: I am sorry. You have a what?

[12] MR. SEAY: Character witness for my
[13] client, Raenell Edwards. She hasn't appeared so I
[14] didn't give her name, but I am being assured that
[15] she's going to appear. I just want to address the
[16] jury to make sure no one would recognize her name.

[17] THE COURT: What is her name?

[18] MR. SEAY: Raenell Edwards.

[19] R-A-E-N-E-L-L.

[20] THE COURT: Anything else?

[21] MR. SEAY: Not from me, Your Honor.

[22] MR. SERVER: Your Honor, a witness by the
[23] name of Raffinee Taylor is going to testify probably
[24] this morning. Ms. Taylor is a paramour of Kyle Reed.
[25] And when Raffinee was questioned several times by the
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[1] **BY MR. CONROY:**
[2] **Q.** Question: So I assume after you came home from this
[3] audition, so to speak, you have a conversation with Kyle
[4] basically telling him where you were that day?
[5] Your answer: Yes.
[6] Question: In that conversation you indicate to him
[7] you met this person, Budda, and you had seen Emir again?
[8] Answer: Yes.
[9] Question: When you told Kyle you had seen Emir
[10] again, does Kyle get upset or anything?
[11] Answer: No.
[12] Does he get mad?
[13] Answer: No.
[14] Does he say anything regarding Emir, anything you
[15] interpret as a threat?
[16] Answer: No.
[17] Question: He merely says, if I am not mistaken, that
[18] he remembers Emir as the guy who took your photos?
[19] Yes.
[20] And he remembered who he was?
[21] Answer: Yes.
[22] Do you remember those questions and answers, ma'am?
[23] **A.** Yes. The way you're wording it, it wasn't like that.
[24] It was just brief and that was it. It wasn't remembering who
[25] he was, it was a brief -- it was brief. I was there, okay,
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[1] know that you're not cooking with all four burners.
[2] Whether it is -- because you know what you said about
[3] the pictures that you put on the screen. You said
[4] they were anesthetized. You meant to say sanitized.
[5] Being that -- you would have been wrong. If you
[6] would have said sanitized it would have caused a
[7] mistrial.
[8] Do not comment on the fact the pictures
[9] have the marks taken off them.
[10] **MR. CONROY:** I apologize.
[11] **THE COURT:** Are you done with this? I
[12] mean, you already asked her about everything that she
[13] said already.
[14] **MR. CONROY:** I am done, Judge.
[15] **THE COURT:** Are you ready to begin cross?
[16] **MR. SERVER:** Yes, Your Honor. I don't
[17] believe I'll be that --
[18] **THE COURT:** Do you think you could finish?
[19] **MR. SEAY:** I think I could do it in 20
[20] minutes.
[21] **THE COURT:** Do you have cross of her?
[22] **MR. SERVER:** Limited.
[23] **THE COURT:** All right. Well, let's try to
[24] finish.
[25] ---
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[1] that was it. The way you're wording it --
[2] **Q.** Ms. Taylor -- I am sorry.
[3] **A.** It wasn't like that.
[4] **Q.** Are you finished?
[5] **A.** Yeah.
[6] **Q.** Ms. Taylor, did I read your words accurately?
[7] **A.** You read it right. You read it right, but the way
[8] you're wording it like it was a big conversation about him and
[9] it wasn't. No one cared about him.
[10] **Q.** Ma'am, in fact, when you came home from that photo shoot
[11] did you have a conversation, did have a conversation with Kos
[12] about Emir, right?
[13] **A.** Brief about where I was at.
[14] **THE COURT:** May I see counsel at sidebar,
[15] please?
[16] ---
[17] (Whereupon, a discussion was held at
[18] sidebar as follow:
[19] **THE COURT:** How much more of this do you
[20] intend or expect to go on? You've already -- you're
[21] beating a dead horse here, Mr. Conroy. You're going
[22] over and over the same thing. The jury is falling
[23] asleep.
[24] **MR. CONROY:** So am I, Judge. I apologize.
[25] **THE COURT:** Well, I can know that -- I
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[1] (Discussion concluded)
[2] ---
[3] **MR. CONROY:** Your Honor, I have no other
[4] questions.
[5] **THE COURT:** Very well.
[6] Mr. Server?
[7] **MR. SERVER:** Yes. Thank you. May I, Your
[8] Honor?
[9] ---
[10] **CROSS-EXAMINATION**
[11] ---
[12] **BY MR. SERVER:**
[13] **Q.** You were asked by Mr. Conroy to explain to us why you
[14] may have told Judge Moore that Mr. Reed paid \$400 or \$500 to
[15] Ernest. Do you remember that question?
[16] **A.** Yes.
[17] **Q.** In fact, the explanation is, is because the detectives
[18] gave that figure to you, didn't they?
[19] **A.** Yes, they did.
[20] **Q.** And, in fact, you told Judge Moore that, didn't you?
[21] **A.** Yes.
[22] **MR. SERVER:** I want to direct your
[23] attention to the notes of testimony from February
[24] 3rd, 2010.
[25] Your Honor, this is page 19 and I'll start
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[1] at line 20.
[2] **THE COURT:** All right. We're referring to
[3] C-5A?
[4] **MR. SERVER:** Yes, Your Honor.
[5] **BY MR. SERVER:**
[6] **Q.** Question: We'll get to your statement — this is a
[7] question that Mr. Conroy is putting to you.
[8] Question: We'll get to your statement. Counsel has
[9] a copy of it and we'll get to it. But in your statement you
[10] indicate about \$400 or \$500 that you told the detectives.
[11] Again, would that be about a ballpark figure of how
[12] much money Kos paid to Emir for this photo club?
[13] **Answer:** I don't know. The detectives told me that
[14] figure.
[15] Do you remember that question and answer?
[16] **A.** Yes.
[17] **Q.** And that's what happened, the detectives put that figure
[18] in your mind, didn't they?
[19] **A.** Yes.
[20] **Q.** Speak a little louder now.
[21] **A.** Yes.
[22] **Q.** Okay. Now, when you had to come to testify at the
[23] preliminary hearing on February 3rd, 2010, did the detectives
[24] come to get you?
[25] **A.** Yes.

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[1] would come out and get you, right?
[2] **A.** Yes.
[3] **Q.** All right. Now, I want to back up a little bit.
[4] You told us that you refer to my client as Kaseem;
[5] isn't that right?
[6] **A.** Yes.
[7] **Q.** You don't call him Kos, do you?
[8] **A.** No.
[9] **Q.** So all the times in the statements, the three statements
[10] that there's the word Kos in there, that's not how you referred
[11] to your baby's father, is it?
[12] **A.** No.
[13] **Q.** You call him Kaseem all the time?
[14] **A.** Yes.
[15] **Q.** And when you speak about him to other people, you call
[16] him Kaseem, don't you?
[17] **A.** Yes.
[18] **Q.** All right. Now, when this happened in 2008 and Michael
[19] died and Ernest died and the detectives came and they got you
[20] to interview you, how old were you?
[21] **A.** I was 22.
[22] **Q.** 22. And how many kids did you have?
[23] **A.** Two.
[24] **Q.** And both of the children lived with you?
[25] **A.** Yes.

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[1] **Q.** They picked you up?
[2] **A.** Yes.
[3] **Q.** And they brought you to court?
[4] **A.** Yes.
[5] **Q.** And you didn't want to come to court then either?
[6] **A.** No.
[7] **Q.** And the detectives waited out in the hall when you had
[8] to come in the room and testify?
[9] **A.** Yes.
[10] **Q.** And before you came in to testify, the detectives were
[11] in the same room with you, weren't they?
[12] **A.** Yes.
[13] **Q.** How long were they in the room with you?
[14] **A.** They was in there the whole time.
[15] **Q.** All right. Not in the courtroom?
[16] **A.** No.
[17] **Q.** But outside of the courtroom?
[18] **A.** Yeah.
[19] **Q.** Okay. And today did they bring you in again?
[20] **A.** No.
[21] **Q.** You came in on your own?
[22] **A.** Yes.
[23] **Q.** But you were told that you better be here, weren't you?
[24] **A.** Yes.
[25] **Q.** Or that there would be a bench warrant and somebody

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[1] **Q.** Now, as I understand what you told us and from the
[2] paperwork, the detectives came and they got you on December
[3] 29th, 2008; isn't that right?
[4] **A.** Yeah.
[5] **Q.** All right. And you were at home?
[6] **A.** Yes.
[7] **Q.** And you were taking care of your children?
[8] **A.** Yeah.
[9] **Q.** And the detectives said you have to come with us, didn't
[10] they?
[11] **A.** Yes.
[12] **Q.** You didn't have a choice?
[13] **A.** No.
[14] **Q.** You weren't free to say no?
[15] **A.** No.
[16] **Q.** And once they got you down to the Homicide Division you
[17] weren't free to leave, were you?
[18] **A.** No.
[19] **Q.** And were you worried about your children?
[20] **A.** Yes.
[21] **Q.** And who was taking care of them?
[22] **A.** They was home with my family.
[23] **Q.** Your family. Okay.
[24] So they get you into one of the interview rooms at
[25] the Homicide Division; is that right?

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[1] A. Yes.
[2] Q. Is it a separate room now with a closed door?
[3] A. Yeah.
[4] Q. Is there anybody else in the room with you?
[5] A. Just me.
[6] Q. All alone?
[7] A. Yeah.
[8] Q. Were you handcuffed at all?
[9] A. Yes.
[10] Q. You were handcuffed?
[11] THE COURT: Indicating yes.
[12] MR. SERVER: Indicating yes, Your Honor.
[13] BY MR. SERVER:
[14] Q. Did they handcuff you to a chair, to a table, how did
[15] that work?
[16] A. They just had me in handcuffs. Like, they had me near a
[17] chair and then sometimes they had me in handcuffs --
[18] Q. Did you think --
[19] A. -- for my arms.
[20] Q. I am sorry. I didn't mean to interrupt you.
[21] Did you make any effort to resist or to run away?
[22] A. No.
[23] Q. Did you threaten them in any way?
[24] A. No.
[25] Q. But they handcuffed you?
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[1] A. Yeah.
[2] Q. Now, according to the documents that we have, Detective
[3] Cummings and Detective Glenn came in to interview you at 11:55
[4] in the morning, does that sound right?
[5] A. Yes.
[6] Q. Now, Detective Cummings and Detective Glenn, they were
[7] basically nice to you, they were polite, weren't they?
[8] A. Yes.
[9] Q. And they were asking you questions about do you know
[10] Kyle and how do you know him and do you recognize his photo,
[11] things like that, right?
[12] A. Yeah, they --
[13] Q. And that's in the first statement. Do you have your
[14] first statement in front of you? I think that's 6A.
[15] THE COURT: 6A.
[16] MR. SERVER: Commonwealth Exhibit 6A.
[17] BY MR. SERVER:
[18] Q. Do you have that?
[19] A. Yeah, I have it.
[20] Q. And so they asked you things like, you know, do you
[21] recognize Kyle, do you recognize Vincent, do you know what kind
[22] of car MG drives, that sort of thing, right?
[23] A. Yeah.
[24] Q. And there was nothing threatening in their tone, it was
[25] all kind of a matter of fact?
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[1] A. No, they were not threatening, no.
[2] Q. They were nice to you?
[3] A. Yeah.
[4] Q. Now, how long do you think that first statement took?
[5] A. About five minutes.
[6] Q. How long do you think you were at the Homicide Division
[7] before Detective Cummings and Glenn came in to see you?
[8] A. A couple hours.
[9] Q. Did they allow you to get anything to eat?
[10] A. No.
[11] Q. How about something to drink, any water?
[12] A. No.
[13] Q. How about to go to the bathroom?
[14] A. Eventually. But, no, not for a long time.
[15] Q. And how about to make a phone call to your family to let
[16] them know that you were all right?
[17] A. No, I couldn't make a phone call.
[18] Q. Or how about to speak to your children?
[19] A. No, I didn't.
[20] Q. How old were your kids at this time?
[21] A. Two and eight.
[22] Q. Eight?
[23] A. Seven.
[24] Q. Seven?
[25] A. Yeah.
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[1] Q. So you could -- you know, the seven-year-old you could
[2] have assured them and talked to them and said mommy is okay,
[3] mommy will be home soon?
[4] A. No.
[5] Q. All right. Now, let's go to your second statement and
[6] see if this helps you to remember. It would be Commonwealth
[7] Exhibit 6B.
[8] According to our paperwork, on that same day on
[9] December 29th, 2008, the second interview begins at 4:30 p.m.,
[10] does that sound right?
[11] A. Yes.
[12] Q. So about five hours go by between the first interview
[13] with the nice detectives --
[14] A. Uh-huh.
[15] Q. -- and the second interview with these new detectives,
[16] Detectives Pitts and Jenkins; isn't that right?
[17] A. Yes.
[18] Q. Now, during that five hours did you get anything to eat?
[19] A. No.
[20] Q. Did you get anything to drink?
[21] A. No.
[22] Q. Did they take the handcuffs off?
[23] A. No.
[24] Q. Did they let you make a phone call?
[25] A. No.
Sharon Ricci, RPR, CRR

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[1] Q. Did they let you talk to your children?
[2] A. No.
[3] Q. Were you given an opportunity to have a lawyer?
[4] A. No.
[5] Q. Did you ever ask for a lawyer?
[6] A. Yes.
[7] Q. Did anybody ever read you your rights?
[8] A. No.
[9] Q. Did anybody ever tell you you have a right to remain
[10] silent?
[11] A. No.
[12] Q. Well, Detective Pitts and Jenkins, they come in the room
[13] and they begin to interview you at 4:30, don't they?
[14] A. Yeah.
[15] Q. And their attitude is a little different, isn't it?
[16] A. Yes.
[17] Q. They're threatening you, aren't they?
[18] A. Yes, they did.
[19] Q. What kind of threats?
[20] A. They told me that they was going to charge me for
[21] murder.
[22] Q. Charge you with murder? What did --
[23] A. And they told me I was never going to see my kids again
[24] and they just was threatening me.
[25] Q. Didn't you ask them why they would say that to you?

Sharon Ricci, RPR, CRR

[1] A. And they just -- they was just real mean.
[2] Q. So you got the nice cops at the first interview and then
[3] you got the tough cops at the second interview, is that what
[4] happened?
[5] A. Yes.
[6] Q. So were Detective Pitts and Jenkins in the room at the
[7] same time with you?
[8] A. Yes.
[9] Q. And were they indicating to you that they didn't believe
[10] anything that you said in the first statement?
[11] A. Yeah.
[12] Q. And were they telling you things that they think you
[13] should have said in the second statement?
[14] A. Yes.
[15] Q. What kinds of things?
[16] A. They was telling me that I knew that my son's father
[17] robbed people and they was going to keep typing over the
[18] statement until they was right and I was going to sign it.
[19] They was just horrible.
[20] Q. Did you tell them you wanted to leave?
[21] A. Yes, I did.
[22] Q. And they wouldn't let you?
[23] A. No.
[24] Q. Were you still handcuffed?
[25] A. Yes.

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[1] Q. Did Detective Pitts and Jenkins give you a chance to get
[2] anything to eat?
[3] A. No.
[4] Q. Did they give you a chance to get a drink of water?
[5] A. No.
[6] Q. How about to go to the bathroom?
[7] A. Eventually I went to the bathroom.
[8] Q. Okay. When was that?
[9] A. Later on at night like -- probably like 12:00.
[10] Q. 12:00 midnight?
[11] A. Yeah.
[12] Q. And all the time from 11:00 in the morning when they
[13] bring you in until 12:00 at night, you don't go to the
[14] bathroom?
[15] A. Yes.
[16] Q. Did they let you call your family to tell them where you
[17] were?
[18] A. No.
[19] Q. Speak to your children?
[20] A. No.
[21] Q. Talk to a lawyer?
[22] A. No.
[23] Q. Well, how long did the second interview take before
[24] Pitts and Jenkins were done with you?
[25] A. It was hours. It was just all day.

Sharon Ricci, RPR, CRR

[1] Q. All day? Well, let's go now to the third statement, 6C.
[2] We're not talking just all day that you were with the homicide
[3] people, are we?
[4] A. No.
[5] Q. We're talking about days and nights, aren't we?
[6] A. Yes.
[7] Q. Days and nights in that same room?
[8] A. Yeah.
[9] Q. Handcuffed?
[10] A. I was handcuffed for most of the time, yeah.
[11] Q. According to our information, according to the third
[12] statement, Detective Pitts and Glenn don't take your third
[13] statement until January the 2nd, 2009, at 8:28 p.m.
[14] Is that what happened?
[15] A. Yes.
[16] Q. So you're in custody of the Homicide detectives in the
[17] Homicide Division of the Police Administration Building from
[18] December 29th, 2008, until January 2nd, 2009?
[19] A. Yeah, I was down there.
[20] Q. You're there even longer, aren't you? Because they
[21] don't let you go on January 2nd, do they?
[22] A. No.
[23] Q. Well, Detective Pitts and Detective Glenn come in to see
[24] you on January 2nd. Where were you all that time between
[25] December 29th and January 2nd?

Sharon Ricci, RPR, CRR

EXHIBIT “D”

First Judicial District of Pennsylvania

51CR00104562008, 51CR00104572008

John McLaughlin

*Trial (Jury) Volume 2
February 22, 2012*



*First Judicial District of Pennsylvania
100 South Broad Street, Second Floor
Philadelphia, PA 19110
(215) 683-8000 FAX:(215) 683-8005*

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[1] Raymond Mooney - cross
[2] Q. That's not how that blood got
[3] on that shirt, is it?
[4] A. Yes.
[5] Q. You're going to stick with
[6] that.
[7] A. Yes.
[8] Q. All right. Let's go to 69-B.
[9] THE COURT: Is that coming up
[10] on the screen?
[11] MR. McMONAGLE: No, no, Judge.
[12] The statement 69-B. Sir, I'm going to ask you
[13] to now look at 69-B.
[14] MR. CONROY: C-9B.
[15] MR. McMONAGLE: I'm sorry.
[16] What did I say? Six nine? C-9B. Forgive me.
[17] MR. CONROY: I thought you
[18] meant a photograph.
[19] MR. McMONAGLE: Forgive me.
[20] C-9B.
[21] THE COURT: Do you have C-9B in
[22] front of you, sir?
[23] THE WITNESS: Yes.
[24] THE COURT: Very well. Take a
[25] look at it.

Carl G. Sokolski
Official Court Reporter
(215) 683-8060

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[1] Raymond Mooney - cross
[2] MR. McMONAGLE: Feel free to
[3] use your glasses, sir.
[4] THE COURT: Go ahead, Mr.
[5] McMonagle.
[6] BY MR. McMONAGLE:
[7] Q. Now, Mr. Mooney, as I look at
[8] C-9B, it like the first statement that you
[9] gave to homicide detectives has a cover sheet,
[10] right? And here's the other one I'm referring
[11] to. They both have a cover sheet, don't they?
[12] A. Yes. Apparently they do.
[13] Q. Same type of form.
[14] A. Yes.
[15] Q. It's a preprinted form.
[16] A. Yes.
[17] Q. And it reads the same but the
[18] difference between this one, really, there's a
[19] couple things on the new one, the second one,
[20] the one that's dated January the seventh of
[21] 2008, right there, and one of the things
[22] that's different in it is that it reads "in
[23] the presence of," because there's two new
[24] detectives this time, right? In this
[25] statement. And I don't want to be, I'm not

Carl G. Sokolski
Official Court Reporter
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[1] Raymond Mooney - cross
[2] trying to be coy. This statement it's
[3] Detective Cummings and Detective Pitts, the
[4] one in front of you. Detective Cummings and
[5] Detective Pitts.
[6] A. Where is that at on here?
[7] Q. Right there. Detective
[8] Cummings and Detective Pitts.
[9] A. Okay. Yes.
[10] Q. Right?
[11] A. Yes.
[12] Q. Because they're the detectives
[13] that interviewed you not the first time but
[14] the second time, right?
[15] A. Yes.
[16] Q. Now, you told us earlier, you
[17] told me earlier that when I asked you if you
[18] were mistreated, you said you were mistreated
[19] by Detective Pitts, right?
[20] A. Yes.
[21] Q. And Detective Pitts had nothing
[22] to do with the first statement where you lied,
[23] did he?
[24] A. No.
[25] Q. Right. Detective Pitts is

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Official Court Reporter
(215) 683-8060

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[1] Raymond Mooney - cross
[2] involved in the second statement where for the
[3] first time you blame John McLaughlin for this
[4] crime, right? Detective Pitts and Cummings.
[5] Right?
[6] A. I talked to Cummings.
[7] Q. And Pitts, right? He was
[8] there.
[9] A. Pitts was there.
[10] Q. He was there.
[11] A. He was the one said put the
[12] handcuffs on him and take him back to the
[13] Roundhouse.
[14] Q. Got you.
[15] A. Or the CFCF.
[16] Q. And the one that threatened
[17] your sister.
[18] A. Yes. Pitts did.
[19] Q. Pitts did. You're sure about
[20] that. You're sure that Detective Pitts, who's
[21] been in Homicide a long time, threatened to
[22] lock up your seventy-five year old sister. Is
[23] that your sworn testimony?
[24] A. Yes.
[25] Q. Okay. And then they did the

Carl G. Sokolski
Official Court Reporter
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EXHIBIT “E”

MEMORANDUM

POLICE

CITY OF PHILADELPHIA

DATE: 02-25-15

TO :Police Commissioner

FROM :Commanding Officer, Internal Affairs Division

SUBJECT :COMPLAINT OF ZSHANI AL-RASUL IAD #13-592

ALLEGATION

On Wednesday, 10-02-13, Sgt. Frazier #543, Internal Affairs Division, was notified of a Complaint Against Police via Chief Inspector Flacco, Internal Affairs Division. I.A.D. Control #13-592 was issued.

The complainant, David Rudovsky, Esquire, on behalf of his client Zshani Al-Rasul, 29/B/F, 5414 Willows Ave., Philadelphia, PA 19143, PH# 215-924-4400, reported that unknown Philadelphia Police Detectives did not follow proper police procedures when interviewing her in reference to a Homicide investigation.

A check of the Police Personnel Database indicated:

Det. James Pitts #9040, PR #201618, was appointed on 07-24-90 and assigned to the Homicide Unit on 12-26-06.

Det. Ronald Dove #8003, PR# 228660, was appointed on 06-23-97 and assigned to the Homicide Unit on 05-08-06. Det. Dove was dismissed from the department on 12-09-13.

Lieutenant Nicholas DeBlasis #176, Internal Affairs Division, was assigned the investigation on 10-08-13. The investigation was re-assigned to Sgt. James Bolognone #311, Internal Affairs Division, on 04-03-14

INVESTIGATIVE ANALYSIS

This investigation exceeded the 75-day time limit as mandated by the Mayor's executive Order 07-11 due to scheduling conflicts between the investigators and the involved officers.

Zshani Al-Rasul, 29/B/F, 5414 Willows Ave., Philadelphia, PA 19143, was interviewed on 11-05-13, at 3:10 PM, by Lt. DeBlasis #176, at Internal Affairs, and related the following in summary:

Ms. Al-Rasul stated that while she was at work on Saturday, June 1st 2013, she received a phone call from Detective Riddick, who stated that he needed to talk to her in reference to a Homicide. She asked if she could meet him after work and he stated "no." He came and picked her up and transported her to the Homicide Unit. Ms. Al-Rasul stated that when the detectives picked her up, they didn't show her a badge or I.D. but told her they were detectives. She said they were two males and described them as an African American man, who was tall and stocky and the Caucasian male, who was tall and slim. The detectives transported her to Police Headquarters in a blue Ford Taurus.

Ms. Al-Rasul was placed into an interview room with a chair stuck to the floor. The detectives took her phone and purse and left. About an hour later, the same two detectives returned and questioned her about an incident that she was involved in on the 1500 block of Ringgold Street, prior to the murder of Carl Burgess (Homicide case M13-102) on 05-30-13. The passenger of Ms. Al-Rasul's vehicle, Ashley Clinkscales, was alleged to have made a statement about calling someone to bring a gun to settle a dispute they were involved in. They also told her about a male named Carl Burgess, who she knew growing up with, and that he was shot and killed on the same block that night. Ms. Al-Rasul asked to make a phone call but was denied by the detectives. She stated that the detectives left and kept her in the room for hours.

At approximately 5:00 PM, the same black male detective returned. He continued to question her about the same incident and she gave him the same answers. She asked when she could leave and the detective told her not until he got her friend Ashley down there. Ms. Al-Rasul provided the detective with Ashley's phone number. She asked if she could have something to eat and drink. The detective said yes and left. Ms. Al-Rasul didn't see the detective until the next day.

On Sunday 06-02-13, at approximately 8:00 AM, the same two detectives that picked up Ms. Al-Rasul returned. They continued to question her about the incident on Ringgold Street. The black male detective kept telling her that she was not telling the truth. She told them that she needed to go to work and the black male kept telling her that it was her fault that she was going to lose her job. Ms. Al-Rasul asked if she could make a phone call to make arrangements for her 11 year old son, who had been home alone from 4:00 PM on Saturday. She was not permitted to make any calls. On Sunday, her son called the Homicide Unit and someone hung up on him. The black male detective took her jewelry and her work identification and told her that she was going to jail. He told her that she was not telling the truth and that she was taking up for her girlfriend. Ms. Al-Rasul again asked for something to eat. The detective said yes but then left for hours without bringing her anything.

At approximately 1:00 PM, the black male detective returned to speak with her about the same thing and she gave him the same answers. She was told that she was not going home until she saw the judge in the morning. Ms. Al-Rasul asked

again for something to eat and drink. At approximately 3:00 PM, the black male detective returned with a hard pretzel and a can of Pepsi. The detective asked for her cell phone password. She gave it to him, and didn't see him again till the next day.

On Monday 06-03-13, at approximately 8:00 AM, the black male detective returned and told her that she was going home. He said he went through her text messages and that it seemed like she was telling the truth. He asked if she wanted a ride back home or if she was going to take the train. She said she would take the train. The detective gave Ms. Al-Rasul a \$20 bill for train or cab fair and to get something to eat. The detective gave Ms. Al-Rasul his business card and told her to tell her supervisor to call him if they needed to talk to him.

Det. Debra Reilly #9126, PR# 204429, Homicide Unit, 3 Squad, was interviewed on 05-30-14 and re-interviewed on 12-12-14 by Sgt. Bolognone #311, at Internal Affairs, and related the following in summary:

Det. Reilly is the assigned investigator on Homicide Case# M13-102. She was on vacation on 06-01-13 when Ms. Al-Rasul was brought into the Homicide Unit. Her days off that week were Sunday 06-02-13 and Monday 06-03-13.

Det. Reilly stated that she was not at work while Ms. Al-Rasul was detained and doesn't know why Ms. Al-Rasul was detained for the time that she was.

Det. Reilly also stated that a short time after Ms. Al-Rasul had been released from the Homicide Unit, she called her to schedule an interview and that Ms. Al-Rasul got very upset and began to yell. Ms. Al-Rasul told Det. Reilly to call her attorney.

Det. Reilly described an Activity Sheet as a summary of something significant that was done in an investigation. She stated that an Activity Sheet would be completed if an interview of a suspect or witness developed pertinent information. An Activity Sheet would also be done if an identification was made or a key piece of evidence was found. Activity Sheets are completed by whoever does the work and are stored with the Homicide file. She didn't feel that it was unusual for the assigned detective on the case to not have completed an Activity Sheet. Det. Riley stated that she had not had any significant leads or breakthroughs in the investigation that would have required an Activity Sheet.

Only one activity sheet has been completed for Homicide Case #M13-102. Det. Riley did not feel that was unusual because sometimes an investigation generates more information than others. She further stated that an Activity Sheet would not have been completed by Det. Pitts when he picked up Ms. Al-Rasul, because as far as she is aware, Ms. Al-Rasul had nothing to do with the investigation.

Det. Reilly, when shown a copy of a note, that had Ms. Al-Rasul's name on it and the words "hold for 3 sq" and "no calls", that was found in Homicide Case M13-102, stated that she did not know whose writing was on the note. She further stated that the note was probably in the door of the interview room that Ms. Al-Rasul was in. The note was to ensure that Ms. Al-Rasul wasn't released until someone from 3 Squad spoke with her.

Det. Reilly stated that to obtain sandwiches from the Police Detention Unit all she would need to do is call down to the cell room. If there are sandwiches there she can walk down and get them. If there aren't any available the cell room would place an order to get them.

Sgt. Charles Coan #354, PR# 188803, Homicide Unit, 1 Squad, was interviewed on 06-10-14 by Sgt. Bolognone #311, at Internal Affairs, and related the following in summary:

On 06-01-13, Sgt. Coan was working the 8:00 AM to 4:15 PM tour of duty. He does not specifically remember working this day. He does not know who brought Ms. Al-Rasul to the Homicide Unit. He did state that investigators were required to notify either the desk man or a supervisor when they put a suspect or witness into an interview room. Sgt. Coan had no recollection of Ms. Al-Rasul being at the Homicide Unit.

Sgt. Coan stated that at the time that Ms. Al-Rasul was at the Homicide Unit there were no logs kept of when suspects or witnesses were fed or permitted to use the rest room. He also stated that there was no standard practice on how or when a suspect or witness was provided with food. He did say that a phone call would have been made on Ms. Al-Rasul's behalf to notify family of her whereabouts if she had requested it. He doesn't recall specifically who, if anyone, made a call. Sgt. Coan further stated that the squad assigned to the investigation handles their witnesses or prisoners as long as they are working.

Sgt. Robert Wilkins #8870, PR# 206168, Homicide Unit, 5 Squad, was interviewed on 06-12-14 by Sgt. Bolognone #311, at Internal Affairs, and related the following in summary:

On 06-01-13, Sgt. Wilkins was working overtime from 12:00 PM to 12:00 AM. He does not specifically recall working this day. He does not know who brought Ms. Al-Rasul to the Homicide Unit, but stated that investigators were required to notify a supervisor when they put a suspect or witness into an interview room. He does not know what Ms. Al-Rasul's relevance to the investigation was or who, if anyone, interviewed her. Sgt. Wilkins did not have any contact with Ms. Al-Rasul.

Sgt. Wilkins did state that it is the supervisors and the detectives in that squad, whose prisoner or witness it is, to check on the well being of the person.

Sgt. Andrew Byard #328, PR# 186116, Homicide Unit, 2 Squad, was interviewed on 06-18-14 by Sgt. Bolognone #311, at Internal Affairs, and related the following in summary:

On 06-02-13, Sgt. Byard worked overtime from 12:00 PM to 12:00 AM. He does not specifically recall working this day. He stated that he does not know who brought Ms. Al-Rasul to the Homicide Unit and has no recollection of her being there. He did state that the investigators usually notify a supervisor when a suspect or witness is placed into an interview room.

Sgt. Byard stated that he had no knowledge of this investigation and could not explain why Ms. Al-Rasul was detained from Saturday, June 1st to Monday, June 3rd.

Sgt. Byard further stated that at the time that Ms. Al-Rasul was at the Homicide Unit, there was no policy on when a suspect or witness was to be given food or water. He did say that if the suspect or witness asked for something to eat that food would have been provided.

Sgt. Byard stated that there is a monitor system at the front desk that is there to check on the well being of suspects and witnesses.

Sgt. Frank Hayes #8595, PR# 193828, Homicide Unit, 3 Squad, was interviewed on 06-26-14 by Sgt. Bolognone #311, at Internal Affairs, and related the following in summary:

Sgt. Hayes was shown a copy of the Homicide Unit's Daily Attendance Report for the days of June 1st, 2nd and 3rd of 2013. It shows that he worked on 06-02-13 from 11:45 PM to 8:00 AM, then worked overtime from 8:00 AM to 6:00 PM. It also shows that he worked on 06-03-14 from 11:45 PM to 8:00 AM. He does not recall these days specifically but agrees that the Daily Attendance Report is accurate.

Sgt. Hayes does not know who brought Ms. Al-Rasul to the Homicide Unit or why she was detained from 06-01-13 to 06-03-13 nor does he know if a statement was taken or by who.

Sgt. Hayes does not recall Ms. Al-Rasul being at the Homicide Unit nor if she was provided with food or water during his shift. He did state that if she had asked for something to eat or drink that it would have been provided to her.

When asked if he remembered checking on Ms. Al-Rasul during his tours of duty on 06-02-13 and 06-03-13, Sgt. Hayes said that he had no specific memories but if she was there while he was working that he would have checked on her. He stated that it is the supervisor's responsibility to check on prisoners or witnesses that are being detained but that "everyone makes checks."

Sgt. Timothy Cooney #8541, PR# 214950, Homicide Unit, 5 Squad, was interviewed on 07-07-14 by Sgt. James Bolognone #311, at Internal Affairs, and related the following in summary:

On 06-03-13, Sgt. Cooney worked the 6:00 AM to 2:00 PM tour of duty, then worked overtime from 2:00 PM to 6:00 PM. He does not specifically recall working this day.

Sgt. Cooney stated that at this time he was assigned to the Fugitive Squad and that he had no involvement in new cases that came in, specifically Homicide Case# M13-102. He further stated that as a supervisor assigned to the Fugitive Squad, he had no responsibility for the front desk or for witnesses or prisoners that were placed into interview rooms by personnel outside of his squad.

Sgt. Cooney had no contact with Ms. Al-Rasul and had nothing further to add to this investigation.

Sgt. Jacob Williams #262, PR# 219643, Homicide Unit, 3 Squad, was interviewed on 09-08-14 by Sgt. James Bolognone #311, at Internal Affairs, and related the following in summary:

On 06-02-13, Sgt. Williams worked from 8:00 AM to 4:15 PM. On 06-03-13, he worked from 8:00 AM to 4:15 PM and then worked overtime from 4:15 PM until 8:00 PM. He does not specifically recall working these days.

Sgt. Williams stated that he didn't know who brought Ms. Al-Rasul to the Homicide Unit and doesn't know who placed her into an interview room. He also didn't know who, if anyone, spoke to her. Sgt. Williams further stated that he doesn't specifically recall if Ms. Al-Rasul was provided with food or water but that "she should and would have been." Sgt. Williams stated that it was not him who provided the pretzel and soda to Ms. Al-Rasul.

Sgt. Williams also didn't know if Ms. Al-Rasul was permitted to make any phone calls or if any phone calls were made on her behalf. He also stated that at the time Ms. Al-Rasul was at the Homicide Unit, there was no policy in place designating whose responsibility it was to check on the prisoners or witnesses well being. However, the detective that brought them into the unit would check on them.

Lt. Philip Riehl #443, PR# 183071, Homicide Unit, 5 Squad, was interviewed on 07-10-14 by Sgt. James Bolognone #311, at Internal Affairs, and related the following in summary:

On 06-01-13, he worked the 8:00 AM to 4:15 PM tour of duty. On 06-02-13 he was on vacation. On 06-03-13, he worked the 7:00 AM to 3:15 tour of duty then worked overtime from 3:15 PM to 7:00 PM. He does not specifically recall these days.

Lt. Riehl stated that he doesn't know anything about Ms. Al-Rasul or Homicide Case# M13-102, nor does he have any recollection of her being there. He doesn't recall checking on her but said that it was the responsibility of everyone working to check on the well-being of prisoners or witnesses that were at the unit.

He further stated that there was no policy in place on when prisoners or witnesses were to be fed at the time that Ms. Al-Rasul was there. But that if she had asked for something to eat or drink, that food or water would have been provided.

Lt. Walter Bell #210, PR# 194361, Homicide Unit, 3 Squad, was interviewed on 12-04-14 by Sgt. Bolognone #311, at Internal Affairs, and related the following in summary:

Lt. Bell described an Activity Sheet as a summary of circumstances pertaining to a particular investigation. He stated they generally include interviews, statements, attempts to locate suspects and witnesses and generally anything of substance pertaining to the investigation.

Activity Sheets are usually completed by the assigned detective but there is no hard and fast rule as to who can prepare one. They are proof read by a supervisor and then added to the case file. They are also distributed in a packet to the administrative staff who will then distribute them to the Commissioners and District Attorney's Office.

A separate Activity Sheet is usually completed for each pertinent incident and is stored in the case file. Activity Sheets are considered discoverable documents for the purposes of a Criminal Trial and are kept in the Homicide Case File.

Lt. Bell thought that it sounded unusual that a Homicide Investigation Case File would only contain one Activity Sheet but not being familiar with the investigation he could not comment on the amount.

When asked how long the Homicide Unit has been required to fill out Activity Sheets Lt. Bell stated that they've been doing them since he was transferred there in 2005. He stated that he has never seen any memorandums pertaining to when an Activity Sheet is required to be done but that it's pretty much common sense.

Lt. Bell stated that the determination on how long a witness would be held at the Homicide Unit before they were charged or released was decided on an individual basis. Each potential witness could easily become a suspect or co-conspirator during the course of the investigation, while being held at the Homicide Unit. Those potential witnesses or suspects could be held for an extended period of time until an investigation reveals their statement to be true and correct. If additional facts were identified that would cause a person who started out as a witness to become a suspect, the detective would notify a supervisor who would in turn

approve the holding of the witness, usually after conferring with the District Attorneys Office for possible charges.

Lt. Melvin Williams #153, PR# 193632, Homicide Unit, 2 Squad, was interviewed on 06-09-14 and re-interviewed on 01-06-15 by Sgt. Bolognone #311, at Internal Affairs, and related the following in summary:

On 06-01-13, Lt. Williams worked 10:45 PM to 7:00 AM and then worked overtime in reference to Homicide Case #M13-102 from 7:00 AM to 3:00 PM. He supervised the investigation that day but did not conduct any interviews or participate in the investigation.

Lt. Williams also worked on 06-02-13 from 10:45 PM to 7:00 AM then worked overtime from 7:00 AM to 5:00 PM. On 06-03-14 he worked from 10:45 PM to 7:00 AM then worked overtime from 7:00 AM to 3:00 PM.

Lt. Williams stated that he does not know why Ms. Al-Rasul was detained for three days or what her involvement in the Homicide investigation was. He did not speak with Ms. Al-Rasul directly and does not know who, if anyone did, nor if a formal statement was taken from her.

He further stated that at the time that Ms. Al-Rasul was detained, the Homicide Unit did not have a policy on how often a prisoner or witness was to be fed but that food and water is provided.

Lt. Williams does not know if a phone call was made on Ms. Al-Rasul's behalf but stated that one would have been made if she requested it. He also stated that it is the responsibility of all detectives and supervisors to check on the well being of prisoners and witnesses.

When re-interviewed, Lt. Williams stated that Activity Sheets are an internal policy, but that the Homicide Unit does not have a written set of Standard Operating Procedures. He further stated that there is no policy that describes how and when an Activity Sheet is to be completed.

He described the Activity Sheet as an update briefing of the murder investigation that is being conducted. It is filled out by the detectives that participate in the investigation. The Activity Sheets are approved by either a sergeant or lieutenant prior to being added to the Homicide case file. In addition to being added to the case file, a copy is also submitted to the Commanding Officer of the Homicide Unit as well as the Administrative Office. Activity Sheets are retained in the case file indefinitely as they are discoverable in a trial. Lt. Williams didn't think that it was unusual for a Homicide investigation that is one year and seven months old to only have one Activity Sheet. He stated that detectives would not be required to do an Activity Sheet just for bringing a witness in for questioning.

Lt. Williams stated that he did not recall giving Detectives Pitts and Dove an order to pick up Ms. Al-Rasul or an order to hold her at the Homicide Unit. He further stated that to the best of his recollection he didn't know Ms. Al-Rasul was at the Homicide Unit.

Lt. Williams was shown a copy of a handwritten note that stated to hold Ms. Al-Rasul for 3 Squad and not to permit any phone calls. He recognized the handwriting to be Det. Dove's. He stated that a note like this would have been placed on the interrogation room door; he doesn't know that it was, but if it was, it was not done by him.

At the time of Ms. Al-Rasul's custody, Lt. Williams would have been the over-all supervisor of this case and ultimately responsible for anyone being detained at the Homicide Unit for an investigation that he was supervising and present for.

Lt. Williams does not believe that he was kept informed of Ms. Al-Rasul's status by the detectives that were conducting the investigation because he doesn't specifically recall the investigation.

Lt. Williams was asked if Detective Pitts would have been required to prepare any paperwork documenting that he had picked up Ms. Al-Rasul. He stated the Det. Pitts should have entered Ms. Al-Rasul's name in the Homicide Witness Log Book at the front desk of Police Headquarters as well as write her name on the Interview Room Log of the room she was placed in. Lt. Williams was shown a copy of the Interview Room Log for Interview Room C but didn't recognize the handwriting on it.

Det. James Pitts #9040, PR# 201618, Homicide Unit, 3 Squad, was interviewed on 09-12-14 and re-interviewed on 11-04-14 by Sgt. James Bolognone #311 at Internal Affairs, and related the following in summary:

On 06-01-13, he worked from 10:45 PM to 7:00 AM, then worked overtime from 7:00 AM to 3:00 PM. On 06-02-13, he worked from 11:45 PM to 8:00 AM, then worked overtime from 8:00 AM to 6:00 PM. On 06-03-13, he worked 11:45 PM to 8:00 AM and worked overtime from 8:00 AM to 3:00 PM. He does not specifically recall working these days but agrees that the Daily Attendance Report is accurate.

Det. Pitts stated that on 06-01-13, he worked overtime in reference to Homicide Case# M13-102. He along with Det. Ronald Dove #8003, who was terminated from the Police Department on 12-09-13, picked up Ms. Al-Rasul from her place of employment and transported her to the Homicide Unit.

Det. Pitts, after reviewing the Homicide Interview Room Log, agreed that Ms. Al-Rasul was placed and held in Interview Room C from 06-01-13 until

06-03-13, but denied that he was the one who put her there. To the best of his recollection, Ms. Al-Rasul was left sitting on a bench in the Homicide Unit when he last saw her.

Det. Pitts did not take a statement from Ms. Al-Rasul because she had explained to him on the ride to the Homicide Unit what she knew about the investigation. Det. Pitts stated that he either informed the assigned detective or the supervisor what she had said and that was his last encounter with her.

Det. Pitts denied providing Ms. Al-Rasul with a pretzel and soda and does not know who, if anyone provided her with food or a drink. He also does not recall giving her \$20 for cab or bus fare. Det. Pitts stated that he may have given her his business card at any time during the process but doesn't have a specific recollection of when he gave it to her. He further stated that, if for no other reason, he gave it to her so she had a phone number for her boss to call since he picked her up from work.

At the time of this alleged incident, there was not a Police Directive governing how and when a witness or prisoner was to be interviewed or interrogated. Since this time, the Police Department has created Police Directive #151, "Interviews And Interrogations – Rights Of Individuals And Duties Of Law Enforcement," which established a policy on how interviews and interrogations will be conducted.

The entire case file for Homicide Case #M13-102 was reviewed and found to contain only one activity sheet, which is dated 07-03-13.

In August of 2014, the City Solicitors Office paid Ms. Al-Rasul \$110,000 to settle the law suit that she had filed for being detained for approximately 47 hours.

Det. Dove was not interviewed due to the fact that he was dismissed from the department and is currently under criminal investigation.

Submitted by:

Sgt. James Bolognone #311
James Bolognone
Sergeant #311
Internal Affairs Division

Reviewed and Approved by:

Capt. Michael F. Ryan #20
Michael F. Ryan
Captain #20
Internal Affairs Division

CONCLUSION

This investigation did **SUSTAIN** the fact that Det. James Pitts #9040, PR #201618 and Det. Ronald Dove #8003, PR# 228660, Homicide Unit, **Abused Their Authority**.

Ms. Al-Rasul stated that she had received a phone call from a detective, who she thought was named Det. Riddick, who informed her that he needed to speak with her in reference to a Homicide Investigation. Ms. Al-Rasul asked if she could meet him after she was done work but was told no. A short time later, Det. Pitts arrived and picked up Ms. Al-Rasul.

Det. Pitts stated that he and Det. Dove had picked Ms. Al-Rasul up at her place of employment and dropped her off at the Homicide Unit at Police Headquarters only as a witness.

The allegation by Zshani Al-Rasul of **Improper Detention** against Det. James Pitts #9040, PR #201618 and Det. Ronald Dove #8003, PR# 228660, Homicide Unit, is **SUSTAINED**.

Ms. Al-Rasul stated that she was picked up at her place of employment by two unknown detectives, later identified as Det. Pitts and Det. Dove. She was transported to the Homicide Unit, where she was placed and kept in an interview room from 9:00 AM on 06-01-13 until 8:00 AM on 06-03-13. Ms. Al-Rasul described multiple contacts over the course of her time at the Homicide Unit with the same black male detective that picked her up. She also provided Det. Pitts' business card that was given to her by him upon her release.

Det. Pitts denied having any knowledge of who placed Ms. Al-Rasul in an interview room. He stated that the last time he saw Ms. Al-Rasul, she was sitting on a bench in the Homicide Unit and that he had no further contact with her.

This investigation **SUSTAINED, Departmental Violation of Directive #82, "Adult Detainees In Police Custody"** against Det. James Pitts #9040, PR# 201618 and Det. Ronald Dove #8003, PR# 228660, Lt. Melvin Williams #153, PR# 193632 and Sgt. Frank Hayes #8595, PR# 193828, all of the Homicide Unit.

Ms. Al-Rasul stated that while in custody at the Homicide Unit for 47 hours she was not given anything to eat or drink except a pretzel and soda.

Directive #82, Adult Detainees In Police Custody, states that "all detainees in police custody for 8 hours will be offered a meal and on each succeeding tour of duty thereafter."

No records could be located in the investigation that documented if or when the complainant was provided with food or water.

All of the supervisors interviewed stated that a person in custody would be given something to eat or drink if they requested it.

The allegation by Zshani Al-Rasul of **Improper Procedure** against Det. James Pitts #9040, PR# 201618, and Det. Ronald Dove #8003, PR# 228660, Lt. Melvin Williams #153, PR# 193632 and Sgt. Frank Hayes #8595, PR# 193828, all of the Homicide Unit, is **SUSTAINED**.

Ms. Al-Rasul stated that she requested to make a phone call several times to arrange for child care for her 11 year old son, who was home alone, and to call work to notify them of her absence and was refused.

Det. Pitts denied having any contact with Ms. Al-Rasul while she was at the Homicide Unit and stated that he didn't know she was there for three days. He further stated that he didn't know if anyone had permitted Ms. Al-Rasul to make a phone call.

A handwritten note with Ms. Al-Rasul's name on it was found in the Homicide Case File M13-102 with the words "Hold For 3 SQ" and "No Calls" written on it. Lt. Melvin Williams #153 identified the writing as that of Det. Dove.

The allegation by Zshani Al-Rasul of **Illegal Search** against Det. James Pitts #8003, PR# 9040, PR# 201618, Homicide Unit, is **NOT SUSTAINED**.

Ms. Al-Rasul stated that Det. Pitts asked for her password to her cell phone which she gave him. While being released, Det. Pitts stated that he went through her text messages and it appeared that she was telling the truth.

Det. Pitts denied having any contact with Ms. Al-Rasul once he brought her into the Homicide Unit.

No independent witnesses could be located to support or refute this allegation.

The investigation did **SUSTAIN** the fact that Lt. Melvin Williams #153, PR# 193632 and Sgt. Frank Hayes #8595, PR# 193828, both of the Homicide Unit, **Failed To Supervise**.

Ms. Al-Rasul stated that she was picked up from her place of employment on 06-01-13 and transported to and detained at the Homicide Unit until 06-03-13. She also stated that she was not provided with food or water or permitted to make any phone calls to notify her family or employer of her whereabouts. A formal statement was not taken from Ms. Al-Rasul nor was she charged with a crime.

Lt. Williams was working overtime on 06-01-13 in reference to Homicide Case #M13-102, which is the case that Ms. Al-Rasul was detained in reference to, and the date on which she was brought to the Homicide Unit. He also worked on 06-02-13 and 06-03-13. At the time of the investigation, Lt. Williams was the Three Squad Lieutenant, which was the squad that was assigned to investigate Homicide Case #M13-102. Lt. Williams stated that he supervised the investigation but did not participate in it. Lt. Williams also stated that he had no recollection of this investigation nor did he know who brought Ms. Al-Rasul into the Homicide Unit or if she was a suspect in the case.

Lt. Williams was unable to recall or did not know any specific information regarding Ms. Al-Rasul or why she was detained from 06-01-13 until 06-03-13. Lt. Williams did state that it was the responsibility of the supervisors and detectives to check on the well being of prisoners and witnesses. He didn't recall if Ms. Al-Rasul was provided with food or water but stated that she would have been if she requested it. Lt. Williams further stated that a supervisor's approval would be needed prior to releasing a prisoner or witness.

Lt. Williams was working a total of 35 hours of the 47 hours Ms. Al-Rasul was detained.

Sgt. Hayes worked on 06-02-13 and 06-03-13. He was assigned to Three Squad, which was the squad that was investigating Homicide Case M13-102. Sgt. Hayes stated that he did not recall Ms. Al-Rasul or know who brought her to the Homicide Unit. He also stated that he didn't know why she was detained from 06-01-13 until 06-03-03 nor did he know any specific information about the time that she spent at the Homicide Unit.

Sgt. Hayes further stated that at some point, a detective would notify a supervisor that a prisoner or witness had been placed into an interview room. He also stated that it was the supervisor's responsibility to check on the well being of prisoners and witnesses but that everyone makes checks. In addition, prisoners and witnesses would be provided with food and water if they asked for it.

Sgt. Hayes was working a total of 26 hours of the 47 hours Ms. Al-Rasul was detained.

A copy of this investigation will be forwarded to the Commanding Officer, Police Board of Inquiry, for action.

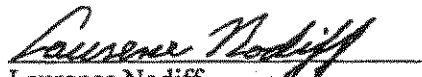

Laurence Nodiff
Staff Inspector
Internal Affairs Division

EXHIBIT “F”

MEMORANDUM

POLICE
CITY OF PHILADELPHIA
DATE: 07-23-12

TO : Police Commissioner
FROM : Commanding Officer, Internal Affairs Division
SUBJECT : COMPLAINT OF MR. LEROY COOK, I.A.D. #12-041

ALLEGATIONS:

On Monday, 01-23-12, at 11:31AM, Lieutenant Appleton #131, Internal Affairs Division, was notified of a Complaint Against Police by the complainant, via U.S. Mail. Issued was an Internal Affairs Division #12-041. The complainant, Mr. Leroy Cook, 84/B/M, 310 Monroe St, Philadelphia, PA 19147, states the he was treated unprofessionally and verbally abused by Detective Pitts, who is assigned to the Homicide Unit.

According to the complainant, on 01-17-12, while at 310 Monroe Street, Detective Pitts came to the complainant's residence looking for his grandson, Naim Cook, in reference to a homicide that he witnessed which was going to trial. Mr. Cook informed Detective Pitts that his grandson did not live with him. According to Mr. Cook, he was pinned against the wall and the front door when Detective Pitts forced the front door open. When Mr. Cook requested to see the search warrant, Detective Pitts said, "I don't need any fucking warrant; he is a witness to a homicide." Detective Pitts and uniformed officers entered the complainant's residence without his permission, searching for his grandson and kicking in the bedroom doors. Detective Pitts stated to the complainant, "I will fuck you up, if we can't find Naim." Mr. Cook was handcuffed and transported to the Homicide Unit after he and Detective Pitts began shouting at each other. When released from the Homicide Unit, without charges, Mr. Cook was taken to Pennsylvania Hospital, via private auto, for chest pains. The complainant also states Detective Pitts confiscated his cell phone and various other phones in the residence, and he still has not received them back.

A check of the Department records indicates the following:

Detective: James Pitts (PR #201618 / 9040), was appointed on 07-24-90. Current Assignment, Homicide Unit (6003) on 12-26-06.

On 01-26-12, Sergeant Ernest Ransom #8688, IAD, was assigned to this investigation.

INVESTIGATIVE ANALYSIS:

In accordance to Executive Order 7-11, all interested parties have been notified that this investigation has exceeded the mandatory 75-day investigation time limit. This delay was due to additional information that was required to complete this investigation.

A check of the Department records indicates the following:

- On Tuesday, 01-17-12, Detective James Pitts (PR #201618 / 9040) along with his partner, Detective Robert J. Hesser (PR #185852 / 0620) assigned to Homicide Unit (D19), attempted to serve a 'Material Witness Warrant' on Naim Cook DOB 05-01-79, PID #0827615 who resides at 310 Monroe St. (Warrant #SI-BW-0000550-2012), issued by Judge Rose Defino-Nastasi (Court Docket #MC51-CR-0019617-2009), ADA: Richard Sax assigned prosecutor.
- On Tuesday, 01-17-12 at approximately 1:08PM, Emergency Patrol Wagon (EPW-301), Officer Jennifer Wakefield (PR #232122 / 1629), and her partner, Officer Frank J. LaFontano (PR #224920 / 3024), transported Mr. Leroy Cook to the Police Administration Building (PAB) at 8th and Race St. Mr. Cook was then taken to the Homicide Unit for investigation and pending charges of 'Obstruction of Justice / Hindering Apprehension'.
- On Thursday, 01-26-12, a Complaint or Incident Report (75-48) DC #13-03-005054 was prepared by Sergeant James J. Bolognone (PR #237915 / 0311 – assigned to the 3rd Police District), in reference to 'Damaged Property'. This 75-48 alleges that Homicide detectives damaged his (Mr. Cook) front door while attempting to gain entry into his residence (310 Monroe St.). Assigned Internal Affairs Division investigator photographed the alleged damaged front door.

Complainant: Mr. Leroy Cook DOB: 11-23-27, 310 Monroe St., Philadelphia, PA 19147, PA OLN #12-381-114, Telephone #267-973-6000, was interviewed on 03-02-12 at 1:15PM at The Cast Iron Building, 718 Arch St., Suite 501S, Philadelphia, PA 19106, in the presence of Attorney David Rudovsky 215-925-4400. Below is a summary of that interview:

On 01-17-12, Mr. Leroy Cook recalled a knocking on his front door. When he opened the door, two Homicide detectives walked inside and asked him if Naim Cook (DOB 05-01-79 33B/M, PID #0827615 – Mr. Leroy Cook's grandson) was home. Mr. Cook informed the Homicide detectives that he did not know where Naim was. According to Mr. Cook, when they came into his home, one of the detectives (identified as Detective James Pitts) hit him in the chest with his elbow, which caused him to fall against the wall. That detective then proceeded upstairs to the second and third floors of the property kicking in the bedroom doors looking for Naim. Detective Pitts had Mr. Cook's granddaughters: Angel (22) and Nadira Cook (25) come downstairs and sit in the living room area. According to Mr. Cook, Detective Pitts said that he (Mr. Cook) allowed Naim to run out the back door of the property.

The following is an excerpt from Mr. Cook's statements to the assigned Internal Affairs investigator:

"I said I don't know who you are. He said I can do this. I said do what. Coming in my house, invading my privacy. I don't know who you are. You have not shown me any papers or nothing. He said I can do this. He said guess what, I said is something else coming. He said I'm going to lock you up. I said why, what did I do.

He said he could do that. I said you are supposed to show me something. I said show me your warrant. He said I don't need one. He told his partner to call the wagon. They handcuffed me. Black guy, 6'1", about 190lbs. He had a pair of pants on. A long coat. He did not even have a jacket on. The other detective was real light. I thought he was white. He never came into the house. When I went down to 8th and Race, I never saw his partner. When I came outside it looked like there was twenty or thirty cops out there."

Mr. Cook was unaware of where he was being transported to until he was informed by the transporting officers that he was at the roundhouse (Police Administration Building - PAB).

"While I was there I sat for two hours before he came and got me. He asked me where is Naim. I told him I don't know. How I'm I suppose to know where he is, he is a grown man. So I told him I don't even know what you are talking about. He said you are not going to talk to me, get up and get out of my room. So when I got up he pushed me out the room. I staggered out to the hallway. Then he put me back in the room I believe it to be the Homicide room. During the time he had me in the office, he had my phone. He still has it. Detective Pitts called Carole Cook on the phone about 8 or 9 times from my cell phone they took the first time. This was the day they had me down there. They brought me into a little room. They then took me to another room where the detective was sitting with another detective. When I left the Homicide unit around 7:30 that night. My nephew drove me to the hospital, which is located at 8th and Spruce St. I went to the hospital. That's when the Dr's told me that they were not going to let me go home. I got out Thursday about 3 o'clock."

On 01-19-12, there were two officers in uniform looking for his grandson Naim Cook. According to Mr. Cook, he allowed those officers inside of his property to search for Naim. Mr. Cook described these officers' attitudes and demeanors as professional.

According to Mr. Cook, the police officers returned to his residence for a third time. Mr. Cook does not recall the date, but this occurred while Mr. Cook was not home but his daughter (identified as Carole R. Cook DOB 11-25-59 B/F/53) was. Ms. Cook said the police tried to kick the door in looking for Naim Cook. During this incident, Mr. Cook's front door was damaged (investigational photos attached). Mr. Cook was not present during this incident but believes it occurred two or three days after the second incident.

Complainant's Daughter: Carole R. Cook DOB: 11-29-59, 310 Monroe St. Philadelphia, PA 19147 PA OLN #26-389-837, Cellular #267-320-9950, was interviewed at I.A.D. on 05-15-12 at 10:45AM. The following is a summary of that interview:

On 01-17-12, Ms. Carole R. Cook was not present during the incident when her father, Mr. Leroy Cook, was detained and transported to the Homicide Unit.

On 01-18-12, Ms. Cook recalled while preparing for work at approximately 6:20AM she heard what she perceived to be someone kicking on the front door of her residence (310 Monroe St.). During this encounter with police, the front door was damaged which consisted of a broken door lock, and a damaged doorframe.

According to Ms. Cook, when she finally opened the front door, Detective Pitts told her to move and asked where her son (Naim Cook) was. When Detective Pitts instructed Ms. Cook to sit in the living room and shut up, she told him (Detective Pitts) that he was ignorant, very nasty, and rude. Detective Pitts went upstairs and instructed everyone downstairs to the living room area. According to Ms. Cook, uniformed officers arrived approximately five to seven minutes after the detectives were inside the residence. Once they arrived, that officer stayed in the vestibule area. When Detective Pitts came downstairs, he showed Ms. Cook the Arrest Warrant and said that Naim needs to come to court. After explaining the paperwork to Ms. Cook, he said they would continue coming back to their residence until the court case has concluded. Ms. Cook expressed concerns to Detective Pitts saying that the same way they (detectives) came into her home is the same way the suspects of the homicide can come to their home. Detective Pitts explained why Naim Cook was needed for court to testify and that they (police) have the other two witnesses.

On 01-19-12, Ms. Cook recalled the police coming back to 310 Monroe. They were described as two plainclothes officers who were looking for Naim. Ms. Cook told them that Naim was not there so they left.

On 05-15-12, Ms. Cook was shown a police photo array during her Internal Affairs interview at Internal Affairs Division Headquarters. She circled and signed the photo on the 1st row / second position. She recalled that individual as being Detective Pitts who came to her home on 01-18-12.

Granddaughter: Nadira Cook DOB: 01-05-87, 310 Monroe St., Philadelphia, PA 19147, Cellular #267-320-0533 and was interviewed at I.A.D. on 05-15-12 at 12:00PM. The following is a summary of that interview:

On 01-17-12, Ms. Nadira Cook was going to the bathroom, she heard scuffling coming from downstairs. She immediately called her mother (Carole R. Cook) and told her it sounds like the police were downstairs. According to Ms. Nadira Cook, it sounded like they (police) were scuffling with someone as they were trying to get up the steps. While she was putting on some clothing, she was told to wake her baby and go downstairs immediately. While her mother was still on the phone, Ms. Nadira Cook was explaining to her what was going on, when the detective (identified as Detective James Pitts) snatched the phone from her hands and asked her (Ms. Nadira Cook) 'was that Naim?' As she proceeded downstairs as instructed, she noticed her grandfather (Mr. Leroy Cook), her cousin and her younger brother in the living room. Detective Pitts' partner was described as a shorter white male who was chubby (identified as Detective Robert J. Hesser PR #185852 / 0620). Detective Pitts was cursing at her grandfather, and being rude. The detective said that he could arrest everyone in the house for conspiracy and that he could detain them for days until Naim turns himself in. At that time, Detective Pitts grabbed her grandfather. When the uniformed police arrived, they handcuffed her grandfather and placed him in the patrol wagon. Mr. Cook told Ms. Nadira Cook to go next door and see if she (Isabel Czech 304 Monroe St.) can get a lawyer for him. Ms. Nadira Cook noticed the two detectives coming out Mrs. Czech's house after the uniformed officers had left with her grandfather.

During Ms. Nadira Cook's Internal Affairs Division interview, she was shown a Philadelphia Police Officers photo array. Ms. Nadira Cook circled and signed the picture in row one (1), third (3) picture from the left. She believed that photo to be Detective James Pitts.

On 01-19-12, Ms. Nadira Cook recalled while she was sleeping, the police came into her bedroom looking for her brother Naim Cook. Detective Pitts was checking the other rooms while the uniformed officer stayed with her. The uniformed officer stayed with her until Detective Pitts came into the room and said 'get up now'. When she came downstairs, she noticed the front door was broke.

Witness: Isabel Czech 304 Monroe St. Philadelphia, PA 19147, was interviewed on 04-09-12 at 10:51PM, at 304 Monroe St. Below is a summary of that interview:

On 01-17-12, at approximately 1:04PM, Mrs. Isabel Czech went outside of her home (304 Monroe St.), and noticed her neighbor, Mr. Leroy Cook, being placed into an Emergency Patrol Wagon (EPW) by a uniformed police officer. Handcuffed and searched by that officer, Mr. Cook was taken away. According to Mrs. Czech, the officers were non-confrontational during this incident. Mr. Cook was also very quiet and non-confrontational. He just appeared to be shaken.

Mr. Cook's granddaughter (identified as Nadira Cook DOB 01-05-87 B/F25) went to Mrs. Czech's house requesting information for a lawyer that she believed her grandfather (Mr. Leroy Cook) would need. After the Emergency Patrol Wagon took Mr. Cook away, the two Homicide detectives asked Mrs. Czech if there was a back alleyway. Mrs. Czech requested that the detectives show her their badges before allowing them to enter her home. She took them to the back yard and they looked over the yard wall.

Mrs. Czech spoke with Mr. Cook a few days later and asked him what occurred. He informed her that they (detectives) were banging on his door and when he opened the door, they pushed him out of the way, went upstairs, and began opening and searching the bedrooms. Mr. Cook further explained to Mrs. Czech that he asked them what they were looking for. The detectives said they thought he (Mr. Cook's grandson - Naim Cook) was there and that he was protecting him. Mr. Cook informed Mrs. Czech that they had him sitting in a room at the police station for hours.

Patrol Sergeant: John T. Venit (PR #216794 / 0384), Current Assignment: Patrol Bureau Division: SPD, District Unit: 0300 3rd Police District, 5C, and was interview on 03-01-12 at 10:45AM. Below is a summary of that interview:

On 01-17-12 at approximately 1:04PM, Sergeant John T. Venit #0384 responded to 310 Monroe St. in the 3rd Police District in reference to a Holding Prisoner assignment. Originally, Police Radio dispatched the priority backup address as 310 Montrose St. Sergeant Venit proceeded to that location (310 Montrose St.) with additional patrol officers. No detectives were on location at that address. Sergeant Venit requested that Police Radio contact the detectives for the correct location. Police Radio informed him that the correct location was 310 Monroe St.

He proceeded to that location and upon arrival, he observed two plainclothes detectives. Sergeant Venit describes those detectives as, one black male and one white male. One of the detectives informed the sergeant that all they needed was transportation of a prisoner. Based on that information provided by the detectives, Sergeant Venit resumed all unnecessary police personnel. The wagon was on location and they transported the individual to Homicide Headquarters. Sergeant Venit did not know if one of the two homicide persons was a supervisor or not. Sergeant Venit resumed patrol once the patrol wagon left the location with the prisoner.

Patrol Officer: Tanya L. Ingram (PR #243706 / 3028), Current Assignment: Patrol Bureau Division: SPD, District Unit: 0300 3rd Police District, 2B was interviewed at I.A.D. on 03-05-12, at 12:00PM in the presence of SPI Joe Chaffin – Police Advisor Commission (990 Spring Garden 7th floor, Philadelphia, Pa 19123). The following is a summary of that interview:

On 01-17-12, Officer Ingram #3028, was assigned to RPC 315 solo. The officer's Patrol Log (75-158) indicates that at 1:10PM, she responded to a priority backup, Homicide detectives at 400 Montrose St (actual location – 310 Monroe St.) with a prisoner. The officer recalls that this Radio Call was dispatched for a different location. Officer Ingram believes a supervisor came over the radio and requested that the detectives provide the correct location. Officer Ingram resumed patrol prior to getting the correct location.

Patrol Officer: Paul J. Buck (PR #232184 / 2545), Current Assignment: Patrol Bureau Division: SPD, District Unit: 0300 3rd Police District, 2C was interviewed at I.A.D., on 03-06-12 at 10:00AM in the presence of SPI Joe Chaffin – Police Advisor Commission (990 Spring Garden 7th Fl. Philadelphia, Pa 19123). Below is a summary of that interview:

On 01-17-12, at approximately 1:10PM, Officer Paul J. Buck #2545 was assigned to RPC 324 (solo) and responded to a holding prisoner assignment at 310 Monroe St. Officer Buck along with additional responding units was originally dispatched to 310 Montrose St. to backup the Homicide detectives. Upon his arrival at Montrose St., it was determined that the Homicide detectives provided Police Radio with the incorrect location. Police Radio redirected the units to 310 Monroe St. When Officer Buck arrived at 310 Monroe St., a Homicide detective advised him that he just needed a vehicle for transportation. This officer did observe an older black male handcuffed and being led to the waiting Emergency Patrol Wagon. After the prisoner was loaded into the wagon, Officer Buck resumed patrol. The detective's call sign was D19.

Special Investigator Joe Chaffin from the Police Advisory Commission questioned Officer Buck. The following is a summary of Officer Buck response to those questions:

Officer Buck, while on location at 310 Monroe St., did not observe any injuries to the prisoner (Mr. Leroy Cook B/M/84) nor was there a complaint of any pain or discomfort. The prisoner did not appear to be upset. Officer Buck believes 3 – 4 units responded to 310 Monroe St., but because Police Radio dispatched the assignment at 310 Montrose St., those units were unable to locate the detectives.

Once the correct address was dispatched, numerous units responded and converged at 310 Monroe St. The only supervisor that Officer Buck noticed on location was Sergeant Venit.

Patrol Officer Daniel Duffy Sr. (PR #248523 / 4033), Current Assignment: Patrol Bureau, Division: SPD, District Unit: 0300 3rd District, 2B was interviewed at I.A.D. on 03-05-12, at 10:15AM in the presence of SPI Joe Chaffin - Police Advisor Commission (990 Spring Garden 7th Fl. Philadelphia, Pa 19123). Below is a summary of that interview:

On 01-17-12, Officer Duffy Sr. #4033 was working with Officer Zungolo #6140 and assigned to RPC 3T2. While monitoring Police Radio, Officer Duffy heard a detective request backup at 310 Montrose St. When they arrived at that location with a few other responding units, the detectives were not present. An unknown officer immediately requested Police Radio to ascertain the correct location from the detectives. The detectives then stated that they were at 310 Monroe St. They resumed patrol prior to arriving at that location due to sufficient police units on location.

Patrol Officer Dennis R. Zungolo (PR #238559 / 6140), Current Assignment: Patrol Bureau, Division: SPD, District Unit: 0300 3rd Police District, 2B was interviewed at I.A.D. on 03-05-12, at 10:02AM. Below is a summary of that interview:

On 01-17-12, Officer Zungolo #6140, along with his partner Officer Duffy Sr. #4033, were assigned to RPC 3T2. Officer Zungolo recalls a detective came over Police Radio requesting backup at 310 Montrose St. They went to that location which was determined to be the wrong location. The detective then came back over the air with the correct location, which was 310 Monroe St. They never made it to that location because there were sufficient police units on scene.

Patrol Officer Joseph O'Reilly (PR #247330 / 9980), Current Assignment: Patrol Bureau, Division: SPD, District Unit: 0300 3rd Police District, 2C was interviewed on 03-14-12 at 9:30PM. Below is a summary of that interview:

On 01-17-12, at approximately 1:10PM, Officer Joseph O'Reilly #9980 was assigned to RPC 324 with his partner, Officer Melissa M. Kromchad #6184. They responded to 310 Montrose St. for a holding prisoner assignment. Officer O'Reilly was the operator of RPC 324, and when they arrived on location, Sgt Venit and Officer Kromchad proceeded into the property, which appeared to be abandoned. Police Radio redirected the units to the correct location of 310 Monroe St. When they arrived at 310 Monroe St., Officer O'Reilly's partner, Officer Kromchad, went inside of the residence while he waited outside. The prisoner, who was handcuffed, was placed in the waiting Emergency Patrol Wagon (EPW). Once the prisoner was secured, they resumed patrol.

Patrol Officer Melissa Kromchad (PR #243817 / 6184), Current Assignment: Patrol Bureau Division: SPD, District Unit: 0300 3rd Police District, 2C, and was interviewed on 03-14-12 at 9:10PM. Below is a summary of that interview:

On 01-17-12, Officer Kromchad #6184, was assigned to RPC 324 with her partner, Officer Joseph O'Reilly #9980, and responded to a holding prisoner assignment at 310 Monroe St. They originally responded to 310 Montrose St. as dispatched by Police Radio.

Officer Kromchad and Sgt Vernit cleared that property, when Police Radio provided them with the correct location at 310 Monroe St. When they arrived at 310 Monroe St., Officer Kromchad went inside the residence and observed an elderly man who was approximately eighty (80) years of age handcuffed. At that point, the detectives said the male was going to Homicide. Officer Kromchad escorted the male out and handed him over to Officer Wakefield and Officer LaFontano, who were assigned to Emergency Patrol Wagon (EPW) 301. They resumed patrol once the EPW left the location.

Patrol Officer Frank J. LaFontano (PR #224920 / 3024), Current Assignment: Patrol Bureau Division: SPD, District Unit: 0300 3rd Police District, and was interviewed on 02-27-12 at 4:45PM. Below is a summary of that interview:

On 01-17-12, at approximately 1:04PM, Officer Frank J. LaFontano #3024 was assigned to Emergency Patrol Wagon (EPW), with his partner, Jennifer Wakefield #1629, and they responded to a holding prisoner assignment at 310 Monroe St.

Officer LaFontano recalled this Radio assignment being dispatched as a priority back-up for the Homicide Unit. The initial address Police Radio dispatched was 310 Montrose St. They later received the correct address of 310 Monroe St. When they arrived on location, they proceeded into the property. Officer LaFontano observed what he believed to be two Homicide detectives on location. Officer LaFontano described the two Homicide detectives as two males, one black, and the other white. They instructed Officer LaFontano to take the prisoner (Mr. Leroy Cook) straight to Homicide. Officer LaFontano recalled the prisoner being handcuffed prior to taking possession of him. Prior to placing the defendant in their patrol wagon, Officer LaFontano searched the male for weapons and or contraband. The prisoner, who was described by Officer LaFontano as a seventy (70) year old black male, did not complain of any pain or discomfort. When they (EPW 301) arrived at the Police Detention Unit (PDU), Officer LaFontano backed the wagon into holding prisoner bays. They also filled out the proper prisoner intake forms prior to taking the prisoner through the holding cell area. Officer Wakefield prepared a transportation 75-48 for Homicide without numbers.

Patrol Officer Jennifer Wakefield (PR #232122 / 1629), Current Assignment: Patrol Bureau Division: SPD, District Unit: 0300 3rd Police District, and was interviewed on 02-27-12 at 5:15PM. Below is a summary of that interview:

On 01-17-12, at approximately 1:04PM, Officer Jennifer Wakefield #1629 was assigned to EPW 301, with her partner, Officer Frank J. LaFontano #3024. They responded to a holding prisoner assignment at 310 Monroe St. They (EPW 301) were first dispatched to 310 Montrose St., which was a priority backup for the Homicide detectives with a prisoner.

Once at 310 Montrose St., they could not locate the detectives. Police Radio eventually provided EPW 301 with the correct location of 310 Monroe St. Officer Wakefield recalled the prisoner (Mr. Leroy Cook), being handcuffed prior to their arrival. Prior to placing Mr. Cook in the patrol wagon, they searched him for weapons and contraband, which they did not uncover anything. Officer Wakefield recalled Mr. Cook being upset that he was being arrested, but he was very compliant with them (Officer Wakefield and Officer LaFontano). Officer Sergeant Venit #384 along with additional patrol units were on location. Officer Wakefield prepared a transportation Complaint Or Incident Report (75-48) for the Homicide Unit without numbers. EPW 301 was instructed by the detectives to transport Mr. Cook to Homicide. During their transportation assignment, Mr. Cook did not complain of any pain or any type of discomfort. After taking Mr. Cook to the Homicide Unit, EPW 301 resumed patrol.

Patrol Officer James Kelly (PR #250173 / 2296), Current Assignment: Patrol Bureau, Division: SPD, District Unit: 0300 3rd Police District, 1C, and was interviewed on 03-08-12 at 9:30PM. Below is a summary of that interview:

On 01-24-12, Officer James Kelly #2296 was assigned to RPC 324 solo. Officer Kelly's Patrol Log (75-158), the Computer Aided Dispatch (CAD) report and 75-48 Inquiry Screen (DC #12-03-004589), indicates that on 01-24-12 at approximately 10:25AM, he conducted an Investigate Premises at 310 Monroe St. This investigation was based on a 'Material Witness Bench Warrant' for Naim Cook (Warrant #SI-BW-0000550-2012). Officer Kelly was allowed to search the property by the homeowner, Mr. Leroy Cook, who answered the door.

Officer Kelly recalled Mr. Cook requesting a copy of the Philadelphia Criminal Court Warrant for his (Naim Cook) failure to appear as a witness in a homicide. Officer Kelly showed Mr. Cook the paperwork. During the search for Naim Cook, Officer Kelly noticed a casino card with Naim Cook's name printed on it. Mr. Leroy Cook was instructed to call the police if Naim Cook comes home because he (Naim Cook) is needed to testify. Officer Kelly remembers Mr. Leroy Cook, and an unknown 50 years old black male in the living room. There was a 25-30-year-old black female in her bedroom who he (Officer Kelly) believed to be Mr. Leroy Cook's granddaughter. Officer Kelly searched 310 Monroe St. with a backup unit present, but he does not recall the backup officer's name and unit number. Officer Kelly resumed patrol and wrote a 75-48 in reference to this contact. Mr. Leroy Cook who was cooperative during this encounter provided Officer Kelly with the information provided in the witness section of the 75-48.

Lieutenant Philip Riehl (PR #183071 / 443), Current Assignment: Detective Bureau, District Unit: 6003 Homicide Unit, and was interviewed via EMAIL on 07-02-12 at 12:01AM. Due to scheduling conflicts, both parties (Lieutenant and the assigned Internal Affairs Division investigator) agree to this interview being conducted via email. The following is a summary of that interview:

On 01-17-12, Lieutenant Riehl became aware of an eighty-four (84) year old male prisoner (Mr. Leroy Cook) being held at the Homicide Unit by Detective Pitts #9040 with the pending charges of 'Obstruction / Hindering Apprehension'. He became aware of Mr. Leroy Cook during his (Lieutenant Riehl) routine call into the Unit sometime after 5 PM.

Detective Pitts was not present in the unit at the time. The lieutenant had worked 11X7 tour and 6 hrs overtime (OT) which ending at 1PM. Lieutenant Riehl ordered this male released pending an Arrest Warrant if applicable. The lieutenant alerted Detective Pitts of the release of Mr. Leroy Cook via text message. Lieutenant Riehl was aware that Mr. Leroy Cook deterred the detectives from locating a necessary homicide witness. Without that witness (Naim Cook), the trial ended in a 'Not Guilty' verdict.

Detective Robert J. Hesser (PR #185852 / 0620), Current Assignment: Detective Bureau, District Unit: 6003 Homicide Unit and was interviewed 06-28-12 at 11:15PM. The following is a summary of that interview:

On Tuesday 01-17-12, at approximately 1:04PM, Detective Hesser #620, along with his partner Detective Pitts #9040, proceeded to 310 Monroe St. in an effort to detain a Naim Cook who was wanted on a 'Material Witness Warrant' (Warrant #SI-BW-0000550-2012), issued by Judge Rose Defino-Nastasi, (Court Docket #MC51-CR-0019617-2009), ADA: Richard Sax assigned prosecutor.

Detective Hesser along with his partner, Detective Pitts, recalled knocking on the front door of 310 Monroe St. and an older male (identified as Mr. Leroy Cook) looking out of the second floor window. The detectives informed Mr. Cook that they were the police. Mr. Cook informed the detectives that he would be right down. While the detectives waited for the door to be opened, Detective Hesser heard what he recognized as doors opening, closing, and lot of movement inside of the property. According to Detective Hesser, it took awhile for Mr. Cook to open the door. Once the door was opened, the detectives requested the whereabouts of Naim Cook (Mr. Leroy Cook's grandson). Naim Cook was wanted on a 'Material Witness Warrant'. Mr. Cook said he should be up in his bedroom. Detective Hesser could see straight through the property and noticed the backyard door open. Detective Hesser, along with his partner, proceeded to the backyard area where he noticed a wall but no gate. Once the detectives left the backyard area, Mr. Cook directed them to the third floor where Naim Cook stays. Detective Pitts checked the residence for Naim Cook with negative results. The other occupants of this property were sent to the living room area for officer safety where Detective Hesser was waiting. According to Detective Hesser, Mr. Cook was agitated and yelling. Mr. Cook continually stated that this was his house. Detective Pitts informed Mr. Cook that what he had done was criminal in nature. Mr. Cook started saying loudly, "Then lock me up!" Detective Hesser overheard an occupant female (Nadira Cook) on the phone saying, "You need to get back here, he is getting in trouble!" Based on the phone conversation, Detective Hesser believed that Nadira Cook was talking to her brother, Naim Cook.

Based on the excessive delay in opening the front door and the banging and running around inside the house and once inside the property, the backyard door open, the detectives being directed by Mr. Cook to the third floor, as well as the phone conversation, led Detective Hesser to believe that Mr. Cook had allowed Naim Cook to flee before opening the door. At that point, a patrol wagon was called to transport Mr. Cook to 8th and Race (Homicide Unit) to determine if a 'Hindering Apprehension' or 'Obstruction of Justice Charge' would be approved by the assigned Homicide ADA.

During the serving of the 'Material Witness Warrant', the rear of this property was not covered nor secured by police. According to Detective Hesser, it appeared that this property (310 Monroe St.) did not have a rear exit. During their entry into 310 Monroe St., Detective Hesser did not damage, kick, or force his way into the house. Mr. Leroy Cook opened the front door for the detectives. Detective Hesser did not pin Mr. Cook between the front door and the wall, nor did he elbow Mr. Leroy Cook in the chest once he entered the residence.

Detective James Pitts (PR #201618 / 9040), Current Assignment: Detective Bureau, District Unit 6003 Homicide Unit and was interviewed on 06-22-12 at 12:00AM in the presence of SPI Joe Chaffin - Police Advisor Commission (990 Spring Garden 7th Fl. Philadelphia, Pa 19123). Below is a summary of that interview:

On Tuesday 01-17-12, at approximately 1:04PM, Detective Pitts #9040, along with his partner, Detective Hesser #620, proceeded to 310 Monroe St. in an effort to detain Naim Cook who was wanted as a 'Material Witness Warrant' (Warrant #SI-BW-0000550-2012), issued by Judge Rose Defino-Nastasi (Court Docket #MC51-CR-0019617-2009), ADA: Richard Sax assigned prosecutor.

Detective Pitts proceeded to 310 Monroe St. to serve this warrant. The detective knocked on the front door; an elderly man (identified as Mr. Leroy Cook) looked out of the second floor window and asked who it was. The detectives informed Mr. Cook that they were the police. Mr. Cook told the detectives that he was coming down. Prior to 01-17-12, Detective Pitts had been to 310 Monroe St. in the past but detectives were unaware that this residence has a rear exit, which would allow an individual to exit the alleyway via breezeway. No police personnel covered the rear of the property. As they waited for Mr. Cook to open the door, which took awhile, Detective Pitts could hear doors slamming. The detective once again knocked on the door and a minute later, Mr. Cook opened the door. According to Detective Pitts, when he stepped in the front door, he asked Mr. Cook where was Naim Cook (Mr. Leroy Cook's grandson). Detective Pitts did not forcibly open the front door nor did Detective Pitts pin Mr. Cook between the door and the wall or elbow him in the chest when entering into the residence. Naim Cook was a witness in a homicide case and ADA McDermott was giving a 'Material Witness Warrant' from the Judge presiding over the case.

Although Mr. Cook directed the detectives to Naim's bedroom, which is on the third floor, Detective Pitts noticing the backyard door open, proceeded to that area. Once again, Mr. Cook directed the detectives to the third floor where Naim's room was. Detective Pitts searched the second and third floors of the property. While on the third floor, a young woman (Nadira Cook) informed Detective Pitts that Naim's room was to the rear of the house. Detective Pitts had all occupants located on the upper floors sent downstairs to the living room area where Detective Hesser awaited. Detective Pitts recalled Mr. Cook being very loud and continually saying that this was his house. The detective asked Mr. Cook whom did he allow to run out the back door. Detective Pitts explained to Mr. Cook that what he did was criminal in nature. According to Detective Pitts, the situation in 310 Monroe St. became very noisy with Mr. Cook continually yelling and not calming down, although his granddaughters were telling him to relax.

At some point, Detective Pitts overheard Nadira talking on her cellular phone. She was saying that, "You got the police here. Granddad is about to get in trouble. You need to handle this." The conversation was brief. After the young woman hung up the phone, Detective Pitts asked if he (Naim Cook) was coming back. She said, "I don't know."

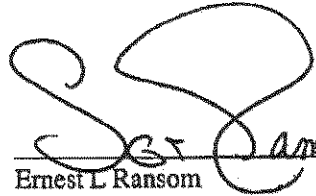
Based on the totality of circumstances, the delay in opening the front door, the slamming of doors, the open backyard door, and the phone conversation that the granddaughter had with allegedly Naim Cook, he had a Emergency Patrol Wagon (EPW 301) transport Mr. Cook to the Homicide Unit for the possible charges of 'Hindering Apprehension' or 'Obstruction of Justice'. While at the Homicide Unit, Mr. Cook's phone was ringing. At some point, Mr. Cook said it was his daughter, but not Naim's mother. After Mr. Cook gave Detective Pitts the phone number for Naim's mother, she was called and indicated that she did not want any parts of this situation.

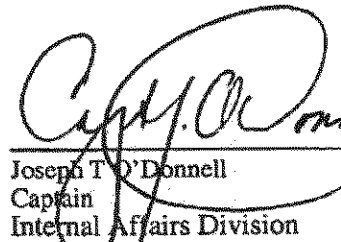
When Detective Pitts arrived at the Homicide Unit, he informed ADA McDermott of the arrest status of Naim Cook. He also informed the ADA that he would make a decision to charge Mr. Cook with 'Hindering Apprehension' or 'Obstruction of Justice'. Detective Pitts explained to the Internal Affairs investigator that every arrest made by the Homicide Unit must be approved by a Homicide Unit ADA before the assigned detective can move forward with any processing of that prisoner. In the Detective Division, an assigned detective can process a Preliminary Arrest Report (PARs) on a prisoner prior to the District Attorney Charging Units (DACU) approving an arrest. If an ADA does not approve the charges, a declination will be issued.

Detective Pitts left work for the day but intended on returning that night and charging Mr. Cook with 'Hindering Apprehension' or 'Obstruction of Justice' if Naim Cook did not turn himself into police. According to Detective Pitts, he routinely puts his cellular phone to silent when he goes in the Criminal Justice Center (CJC) court rooms and as a result, his cellular phone was turned off from the time he left the CJC that day. Detective Pitts left the Homicide Unit around 4PM and when he arrived home, he noticed a missed call and a text from his lieutenant (Lieutenant Riehl - Homicide Unit) informing him that he was going to have Mr. Cook released. Detective Pitts was not present when Mr. Cook was released.

A 'Material Witness Warrants' were also issued for two other reluctant witnesses to this case. A 'Material Witness Warrant', as explained by Detective Pitts, is issued when a witness has signed an investigatory interview, but does not want any involvement in the criminal case. If it can be proven that in the past the person has bench warranted or has indicated that they will not come to court under any circumstances that they can control, and is deemed by the sitting judge that their appearance in court is necessary, a 'Material Witness Warrant' will be issued. These warrants give the police the power to arrest the individual. The witness is held in prison until the case is disposed of, unless the judge decides differently.

On 01-18-12, at approximately 6:15AM, Detective Pitts along with his partner Detective Hesser went back to 310 Monroe St., looking for Naim Cook. During that investigation, Detective Pitts did not damage Mr. Cook's front door.


Ernest L. Ransom
Sergeant
Internal Affairs Division #8688


Joseph T. O'Donnell
Captain
Internal Affairs Division #093

CONCLUSION:

This investigation into Mr. Leroy Cook's allegations of **PHYSICAL ABUSE** which occurred on 01-17-12 by Detective James Pitts (PR #201618 / 9040), when the detective entered Mr. Cook's home in an effort to apprehend Mr. Cook's grandson, Naim Cook, is **NOT SUSTAINED**.

Mr. Cook alleges when Detective Pitts entered into his residence (310 Monroe St.), the detective pinned him between the wall and the door. Mr. Cook further alleges that Detective Pitts elbowed him in the chest. This investigation could not determine if there was any physical contact between the two parties during this incident.

This investigation into Mr. Leroy Cook's allegations of **ABUSE OF AUTHORITY** which occurred on 01-17-12, from Detective James Pitts (PR #201618 / 9040), when this detective entered into Mr. Cook's home in an effort to apprehend his grandson, Naim Cook, is **SUSTAINED**.

Mr. Cook's grandson, Naim Cook, was a witness to a homicide, which occurred on 02-02-09 at 948 S. 4th St. (DC #09-03-003459, Homicide Unit #6003, Control #M22). During the homicide investigation, Naim Cook gave a signed witness statement of the events that occurred that evening. Because of Naim Cook 'Failing to Appear' to the court proceeding, a 'Material Witness Warrant' (Warrant #SI-BW-0000550-2012), was issued by the presiding Judge Rose Defino-Nastasi (Court Docket #MC51-CR-0019617-2009). Assistant District Attorney Richard Sax was assigned to prosecute this trial. Because of the lack of cooperation of all the witnesses involved in this homicide, the defendant was released due to 'Lack of Cooperation'.

On 01-17-12, Detective Pitts went to 310 Monroe St. to look for Naim Cook. Detective Pitts failed to ensure the rear of 310 Monroe St. was covered and secured by uniformed personnel prior to executing the 'Material Witness Warrant.' Detective Pitts knocked; Leroy Cook looked out the second floor window and stated he would be down. Detective Pitts stated he heard doors slamming from inside the property. A few minutes later, Mr. Cook opened the door. Mr. Cook directed Detective Pitts to Naim Cook's room; Naim Cook was not located. Detective Pitts stated he observed a backyard door open. Detective Pitts stated he heard Nadira Cook talking on the cellular phone; she stated "You got the police here. Granddad is about to get in trouble. You need to handle this." When questioned by Detective Pitts if Naim Cook was coming back, Nadira Cook stated, "I don't know."

Detective Pitts stated, based on this information, at approximately 1:10PM, he arrested Mr. Cook for, "Hindering Apprehension" or "Obstruction of Justice." Detective Pitts had Mr. Cook transported to the Homicide Unit. Detective Pitts left work at approximately 4:00PM for the day but intended to pursue charges against Mr. Cook when he returned to work that night.

Lt. Rhiel stated he learned of Mr. Cook's detention at approximately 5:00PM and ordered that Mr. Cook be released, he texted Detective Pitts with this information. Neither Lt. Rhiel nor Detective Pitts knew who or when Mr. Cook was released. Mr. Cook stated he was released at approximately 7:30PM.

This investigation revealed that Ms. Leroy Cook, age 84, was arrested, transported to Homicide Unit, questioned and detained for over six (6) hours based on virtually no articulable facts that would justify a 'Hindering Apprehension' or 'Obstruction of Justice' charge to be completed at the time of the incident. Mr. Cook came down and opened the door after responding to Detective Pitts from an upstairs window. Detective Pitts heard doors slamming. Mr. Leroy Cook, Nadira Cook, and Angel Cook, all adults were inside the home and may have produced those sounds. Detective Pitts had no information that Naim Cook was inside the home prior to the warrant execution and observed no facts that would indicate Naim Cook escaped the home during the execution of the warrant. Detective Pitts stated he heard Nadira speaking on a cellular phone to someone, allegedly Naim Cook. Based on Detective Pitts memory of the conversation, there is little evidence to conclude Naim Cook had just escaped the home during the execution of the warrant.

It is more likely that Detective Pitts was irritated at the elusiveness of Naim Cook from being founded and utilized the detention of Mr. Cook as a tool to illicit cooperation from Mr. Cook or Naim Cook to surrender. This is supported by Detective Pitts' admission that he left Mr. Leroy Cook detained at Homicide, left work, and intended to pursue charges against Mr. Cook that night when he returned to work.

Detective Pitts should not have arrested Mr. Leroy Cook during this incident. Any possible arrest should have been completed after an investigation and submission of a Affidavit of Probable Cause for Arrest Warrant and approval by an ADA. Detective Pitts made no effort, even after arresting Mr. Cook at the scene, to pursue formally against Mr. Cook through submission of an Affidavit for Probable Cause for Arrest. This detention, arrest, and questioning of Mr. Cook under these circumstances was unjustified, improper, and unprofessional.

According to the Computer Aided Dispatch Report (CAD), DC #12-03-003349, EPW 301 transported Mr. Cook to the Homicide Unit at 1:20PM and resumed patrol at 2:09PM. Lieutenant Riehl called into the Homicide Unit at approximately 5:00PM ordering the release of Mr. Cook. Mr. Cook was released shortly thereafter. Mr. Cook's approximate total time in police custody at the Homicide Unit was approximately 3 1/2 hours.

An investigation into Mr. Leroy Cook's allegation of **DAMAGE TO PRIVATE PROPERTY** (front door) by Detective James Pitts (PR #201618 / 9040), when the detective attempted to force entry into Mr. Cook's home in an effort to apprehend Mr. Cook's grandson, Naim Cook, is **SUSTAINED**.

During Mr. Cook's Internal Affairs interview, he could not recall the date that the front door to his residence was damaged because he was not present when Detective Pitts returned to his residence looking for his grandson, Naim Cook. Ms. Carole R. Cook, who is the daughter of Mr. Leroy Cook, and the mother of Naim Cook, recalled the damaged property occurred on 01-18-12.

Complaint or Incident Report (75-48) was prepared for 'Property Damage' (DC #12-03-005054, Code 3107). Sergeant James J. Bolognone (PR #237915 / 0311 – assigned to the 3rd Police District, 2A) prepared this report on 01-26-12 at 4:34PM. Date of occurrence was noted 01-26-12. Complainant was referred to the City Solicitor's Officer for reimbursement.

A copy of this report should forward to the Commanding Officer, Police Board of Inquiry for review and action.


Denise M. Turpin
Staff Inspector
Internal Affairs Division

EXHIBIT “G”

MEMORANDUM

TO : Police Commissioner
FROM : Commanding Officer, Internal Affairs Division
SUBJECT: COMPLAINT OF KEITH TOLBERT-IAD #15-136

POLICE
CITY OF PHILADELPHIA
1-8-16

ALLEGATION:

On Monday, 3-23-15, a Complaint Against Police was received at Internal Affairs, from Keith Tolbert, and IAD #15-136 was issued.

Keith Tolbert, 36, B/M, #LZ4998, Camp Hill, PA 17001, alleged that on 9-4-13, at 8th and Race Streets, Det. Pitts punched him in the face and rubbed his knee against Tolbert's penis. Tolbert also alleged Det. Peterman threatened to break his jaw if he didn't give a statement.

Det. James Pitts #9040, PR# 201618, was appointed to the Philadelphia Police Department on 7-24-90, and assigned on 12-26-06, to the Homicide Unit.

Det. Howard Peterman #9114, PR# 160489, was appointed to the Philadelphia Police Department on 7-28-80, and assigned on 12-17-98, to the Homicide Unit.

On Wednesday, 3-25-15, Lt. Peter Sandusky #389, Internal Affairs Division, was assigned the investigation.

INVESTIGATIVE ANALYSIS:

This investigation exceeded the 75-day limit mandated in Executive Order 07-11. All parties are aware of the delay, which was due to Tolbert's lawyer's failure to respond to letters and phone calls. Tolbert's initial complaint instructed the assigned investigator to contact his lawyer, Mary Maran.

Keith Tolbert, 36, B/M, was interviewed by phone on 11-25-15. Tolbert stated he was brought from the Detention Center to 8th and Race Streets on 9-4-13. Tolbert was made to take off his sweater which had a hood. Tolbert was told the sweater and hood were a security risk. Tolbert was left in a room with only a tank top and shorts. About two hours later, Det. Peterman entered the room and began to talk about a homicide that happened. Det. Peterman was adamant that he knew Tolbert's role in the homicide. Tolbert told Det. Peterman he wanted to talk to his lawyer and invoked his 5th Amendment Right, not to say anything at that time. Tolbert told Det. Peterman his lawyer was Mary Maran. Det. Peterman explained the details of the case and the circumstances, but Tolbert did not respond. Det. Peterman left the room and another detective entered.

Tolbert stated he found out later that the second detective was Pitts. During this questioning, Det. Pitts told Tolbert about himself, and that if Tolbert did not take this questioning seriously he would regret it. Tolbert told Det. Pitts that he wanted his lawyer present during his questioning. Tolbert also told Det. Pitts that the law said all

witnesses were to be recorded in some way. Det. Pitts did not like that response and told Tolbert that this was not a movie, that somebody was deceased, Tolbert was in the middle of it, and if he did not take this seriously he would be in a lot of trouble. Tolbert stated he looked at Det. Pitts and said he had communicated what his position was, and he had invoked his 5th Amendment Rights with Det. Peterman and him. Tolbert stated Det. Pitts became visibly agitated, pulled up a chair, and got up face to face with him. Det. Pitts said it was in Tolbert's best interest to tell him about this homicide and where the body was. Tolbert stared at Det. Pitts and did not say anything. Det. Pitts told Tolbert he needed to tell him something, to speak. Tolbert smiled at Det. Pitts briefly to give him a hint that he was not scared and was firm in his stance. Det. Pitts told Tolbert to stop smiling, this is not a game. Det. Pitts then took his fist and struck Tolbert in the face with his right hand. Det. Pitts continued to raise his voice, but Tolbert did not physically retaliate. Tolbert stayed calm even though Det. Pitts was terrorizing him and had rage in his voice. Tolbert asked if this was the way the Philadelphia Police conducted interrogations, and Det. Pitts told him to, "Shut the fuck up."

Tolbert became fearful that Det. Pitts would strike him, so in an effort to divert him from his rage and aggression, Tolbert asked Det. Pitts to tell him about what was going on with the case. Det. Pitts sat down in a chair and pulled the chair close to Tolbert. Det. Pitts then began to push his knee into Tolbert's crotch area, and use his knee to push and massage next to his penis area. Tolbert did not know how to take this, and he was extremely scared, angry and hurt. Tolbert stated he was almost in shock. This went on for about ten to fifteen minutes as they talked about the case. Tolbert asked Det. Pitts if he could have some time to think about what they discussed. Tolbert did this to get some relief from what Det. Pitts was doing. Det. Pitts got up and left the room, and did not return for about two to three hours. Det. Pitts returned and continued to lecture Tolbert about how it was in his best interest to discuss his role in the homicide. Tolbert again told Det. Pitts that he wanted to speak to his lawyer. Det. Pitts went back to an aggressive mode. Tolbert decided to stand up to Det. Pitts and told him he thought Det. Pitts was dirty and he was not going to talk to a dirty cop, and he had nothing to say. Det. Pitts told Tolbert he was going to talk, and he would be there all night until he talked.

About three hours later, Det. Peterman came in with Det. McNamee. Det. Peterman told Tolbert the two girls were in the other room, both had said similar things about Tolbert's involvement in the alleged homicide, and Tolbert needed to tell them what happened. They continued to badger Tolbert to give a statement, which Tolbert refused to do. Det. Peterman told Tolbert that if he did not take this seriously he would break his jaw. Tolbert stated he was playing games by not giving a statement, and this was after he invoked his 5th Amendment Rights. Both detectives left and another detective came in an hour later. This detective had some notes and paperwork. The notes were statements from the girls. Tolbert assumed it was a ploy to tell him the girls were in custody. The detective showed Tolbert the statements. Tolbert said he still did not believe what he was saying.

Det. Peterman returned and told Tolbert they had gotten statements from both girls and it was not as bad as Tolbert thought, and they tried to switch their tone with him. Tolbert responded that the interrogation

was not being recorded and he still wanted that to happen, and he did not know why they continued to try to get a statement from him. Det. Peterman left the room and Det. McNamee returned to the room. Det. McNamee explained the charges Tolbert was facing. Tolbert told Det. McNamee that if he could get his lawyer, Tolbert would give Det. McNamee, and only Det. McNamee, a statement. About three hours later, Det. McNamee got Tolbert's lawyer on the phone, and Tolbert spoke to her. Ms. Maran told Det. McNamee to stop questioning Tolbert, and it was over at that point.

In response to specific questions, Tolbert stated his complaint is against Det. Pitts for assault and sexual assault, and against Det. Peterman for violation of his Miranda Rights, and the law that all witnesses should be recorded. Tolbert stated his only injuries from this incident were pain and soreness, he did not have any bleeding or a busted lip or anything, and psychological damage from the sexual assault. Tolbert stated no one else was present when Det. Pitts struck him in the face and rubbed his knee against his genital area. Tolbert stated Det. Peterman did not hit him, and he did not give Det. Peterman a statement.

Tolbert also made statements about Mary Maran and the fact he did not feel she provided him with proper representation. The assigned investigator told Tolbert he would have to address those complaints in another venue.

Det. John McNamee #895, Homicide Unit was interviewed on 12-01-15, at Internal Affairs by Lt. Sandusky #389. Det. McNamee stated he was assigned to interview Tolbert in reference to the Homicide of Mr. Zarzycki. Det. McNamee advised Tolbert of his Miranda Rights and told Tolbert he was a suspect in the killing. Det. McNamee stated they spoke about the incident for about an hour to an hour and a half. At some point during the interview Tolbert wanted to speak to his attorney, Mary Maran. Det. McNamee took Tolbert out of the room, called his attorney, and told Maran that Tolbert was in custody and asked to speak to her. Det. McNamee put Tolbert on the phone with Maran. Det. McNamee does not know what Tolbert and Maran discussed. Det. McNamee and Tolbert returned to room C. For a period Tolbert did not want to speak anymore. Det. McNamee left the room, and sometime later Tolbert asked him to come back in. They spoke about the incident some more but Tolbert did not want to give a statement. Det. Peterman was told of the discussion Det. McNamee had with Tolbert, and that was the end of Det. McNamee's involvement.

In response to specific questions, Det. McNamee stated Tolbert never told him what happened between Tolbert and Mr. Zarzycki. Det. McNamee stated he briefly spoke to Maran, about whether Tolbert would speak to them about the location of the deceased's head. Tolbert wanted to speak to his attorney before speaking to Det. McNamee. Maran stated she was not going to allow Tolbert to tell them the location of the head. Det. McNamee does not recall any lengthy time that he, Tolbert, and Det. Peterman were in the room together. Det. McNamee did not hear Det. Peterman threaten to break Tolbert's jaw. Tolbert did not tell Det. McNamee about Det. Pitts hitting him. Det. McNamee does not recall Det. Pitts having any interaction with Tolbert. Det. McNamee did not see any injuries on Tolbert. Det. McNamee stated he did not speak to Tolbert on a later date about his lawyer.

Det. Howard Peterman #9114, Homicide Unit was interviewed on 12-03-15, at Internal Affairs by Lt. Sandusky #389. Det. Peterman stated he was assigned a missing person case that was handled by Northeast Detectives. Homicide became involved when the missing person became a homicide. Det. Peterman had a brief conversation with Tolbert at the Homicide Unit. Tolbert was eventually arrested and charged with murder, and plead guilty to the same charge.

In response to specific questions, Det. Peterman stated he spoke to Tolbert but did not do any type of interview or interrogation. Det. Peterman stated he did not recall telling Tolbert to take off his sweater with a hood, but he may have done that. Det. Peterman stated he would have done that if Tolbert had a drawstring in the sweater that he did not want cut out of the sweater. They would do this so Tolbert could not hurt himself. Det. Peterman stated Tolbert did not tell them anything about Mr. Zarzycki. Det. Peterman stated Tolbert did not ask him to contact his lawyer, Mary Maran. Det. Peterman stated he did not tell Tolbert that if he did not take this seriously, that he would break his jaw. Tolbert did not tell Det. Peterman that Det. Pitts had hit him in the face.

Det. James Pitts #9040, Homicide Unit was interviewed on 12-18-15, at Internal Affairs by Lt. Sandusky #389. Det. Pitts stated he recalled the homicide involving Tolbert, that there were body parts found in the river, and two females lured the victim to the apartment for sex. At some point, Tolbert and the females killed the victim, and parts of his body were cut off and disposed of in the river. Det. Pitts stated he may have spoken to one or two of the defendants but he does not recall anything significant being said to him.

In response to specific questions, Det. Pitts stated he did not recall interviewing Tolbert but he may have spoken to him. Det. Pitts stated he did not take Tolbert's sweater from him, did not punch Tolbert in the face, and did not rub his knee into Tolbert's crotch area. Det. Pitts also stated he did not tell Tolbert to, "Shut the fuck up." Det. Pitts stated Tolbert did not ask to be placed in a room with a camera, and Det. Pitts did not tell Tolbert there was a form he needed to sign, and then refused to allow Tolbert to sign the form until he gave a statement.

At the time Tolbert was in custody, 9-4-13, it was not the policy of the Philadelphia Police Department to record all custodial interrogations of persons suspected of committing criminal homicide, manslaughter, and other homicide related charges. Philadelphia Police Department Directive 151, Interviews and Interrogations-Rights of Individuals and Duties of Law Enforcement, was issued on 1-01-14, and updated on 9-04-14. According to Lt. Norman Davenport #315, Homicide Unit, prior to 2014, the electronic recording of interrogations was only done with the written approval of the suspect. There were only two such recordings conducted in the Homicide Unit between 2011 and 2012, and there were no recordings done in 2013.

Tolbert did not give anyone from the Homicide Unit a statement in reference to the death of Frank Zarzycki. Tolbert plead guilty to murder of the third degree, conspiracy-robbery-inflct serious bodily injury, and abuse of a corpse, on 4-09-15.

Submitted by:

Lt. Peter Sandusky #389
Peter Sandusky #389
Lieutenant
Internal Affairs Division

Reviewed and approved by:

Carol Abrams #54
Carol Abrams #54
Captain
Internal Affairs Division

CONCLUSION:


The allegation that Det. James Pitts #9040, PR# 201618, Homicide Unit, physically and verbally abused Keith Tolbert is NOT SUSTAINED.

Tolbert alleged he was punched in the face by Det. Pitts, and also had his groin area massaged by Det. Pitts knee. Tolbert also alleged Det. Pitts cursed at him. Tolbert stated he and Det. Pitts were the only two people in the room when this happened. Det. Pitts denied the allegations against him. Arrest photos of Tolbert do not show any injury and he did not seek any medical attention. This investigation can neither prove nor disprove these allegations.

The allegation that Det. Howard Peterman #9114, PR# 160489, Homicide Unit, threatened to break Tolbert's jaw is UNFOUNDED.

Tolbert stated Det. Peterman made this threat while Det. McNamee was also in the room. Det. Peterman stated he did not threaten to break Tolbert's jaw, and Det. McNamee stated he did not hear Det. Peterman threaten to break Tolbert's jaw.

A copy of this investigation will be forwarded to the Commanding Officer, Homicide Unit, for review.


Laurence Nodiff
Staff Inspector
Internal Affairs Division